

ITEM NO.4 COURT NO.6 SECTION IIA
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).8179/2010
(From the judgement and order dated 30/08/2010 in CRLA No.
3478/2010 of The HIGH COURT OF BOMBAY)

NIKHIL VASANTLAL MERCHANT AND ORS

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA AND ANR

Respondent(s)

(With appln(s) for stay and office report)

WITH SLP(Crl) NO. 2662 of 2011

(With appln. (s) for exemption from filing c/c of the impugned
order and office report)

SLP(Crl) NO. 4192 of 2011

(With appln. (s) for stay and exemption from filing c/c of the
impugned order and office report)

Date: 19/01/2012 These Petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s)

Mr. L. Nageshwar Rao, Sr. Adv.

Ms. Liz Mathew, Adv.

Mr. Santosh Krishnan, Adv.

Mr. Sushil Karanjkar, Adv.

Mr. K.N. Rai, AOR.

For Respondent(s)

Mr. Krishnan Venugopal, Sr. Adv.

Mr. Hemant Sharma, Adv.

Mr. Bijumattam, Adv.

Ms. Indu Sharma, Adv. (Not present)

Mr. Shankar Chillarge, Adv.

Ms. Asha Gopalan Nair, Adv (Not present)

UPON hearing counsel the Court made the following
O R D E R

SLP(Crl) NO. 8179 of 2010

These petitions are directed against orders dated

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30.08.2010 and 07.12.2010 passed by the learned Single

Judge and the larger Bench of the Bombay High Court in

Criminal Application No. 3478 of 2010.

By the first order, the learned Single Judge

dismissed the application filed by the petitioners

under Section 482 of the Code of Criminal Procedure

against order dated 30.06.2009 passed by the Judicial

Magistrate for issue of process.

By the second order,

the larger Bench of the High Court decided the question of law referred to it by the learned Single Judge.

We have heard Shri L.N.Rao, learned senior counsel for the petitioners and Shri Krishnan Venugopal, learned senior counsel appearing for the complainant as also Shri Shankar Chillarge, learned counsel for the State of Maharashtra and are convinced that order dated 30.08.2010 passed by the learned Single Judge does not suffer from any patent legal infirmity warranting interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.

However, it is made clear that dismissal of the application filed by the petitioners under Section 482 of the Code of Criminal Procedure and the special leave petition shall not in any manner prejudice the defence which may be available to them at the trial and they

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shall be free to raise all legally permissible objections against the proceedings initiated against them under Section 138 of the Negotiable Instruments Act, 1881. At the same time, we make it clear that liberty given by this Court shall not be construed as an expression of opinion by this Court on the merits of the case.

S.L.P.(Crl.) No.2662 of 2011

In view of dismissal of Special Leave Petition(criminal) No.8179 of 2010, this special leave petition is disposed of as infructuous leaving the question of law open to be decided in an appropriate case.

S.L.P.(Crl.) No.4192 of 2011

After making submissions for some time, learned counsel for the petitioner made a request that

his client may be permitted to withdraw the special
leave petition.

The request of the learned counsel is
accepted and the special leave petition is dismissed as
withdrawn.

(Parveen Kr. Chawla)
Court Master

(Phoolan Wati Arora)
Court Master