

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.2280 OF 2011

Satish Didolkar & Ors. ... Appellants

VERSUS

State of Maharashtra ... Respondent

O R D E R

Heard Mr. Basant, learned senior counsel for the appellants, and Ms. Asha Gopalan Nair, learned counsel for the State. The appellants moved the High Court under Section 482 of the Code of Criminal Procedure for quashing of the criminal proceedings in Criminal Case No.229 of 2009 on the file of Additional Chief Judicial Magistrate, Nagpur titled as State of Maharashtra, Food and Drugs Administration, through Drugs Inspector vs. Satish Didolkar and others.

The singular question that was raised before the High Court is that the appellants had been deprived of getting samples analysed by the Central Drugs Laboratory, despite the request made by them in accordance with sub-section (3) of Section 25 of the Drugs and Cosmetics Act, 1940 and hence, the whole proceeding would be an exercise in futility. The High Court, after dwelling upon the facts, has found that there was no intimation.

It is submitted by Mr. Basanth, learned senior counsel for the appellant, that the Inspector concerned has admitted that the

letter was received by him. Learned counsel for the State would contend that the communication was sent under certificate of posting and it was not received by the Inspector prior to 28 days which is the requisite statutory period.

In our considered opinion, the High Court should not have addressed the said issue as it is basically a question of fact and, therefore, we leave the question to be raised before the trial court which shall address the same without being influenced by any of the findings recorded by the High Court. In fact, for the purpose of trial, the findings of the High Court on that score deserve to be set aside and we do so. However, we agree with the High Court that it was not a case for quashment of the criminal proceeding. It is open to the appellant to file appropriate application before the learned trial Magistrate for seeking dispensation of personal appearance.

With the aforesaid observations and the modification in the order of the High Court, the appeal stands disposed of.

.....,J.
(Dipak Misra)

.....,J.
(R.K. Agrawal)

.....,J.
(Prafulla C. Pant)

New Delhi;
April 23, 2015.

ITEM NO.101

COURT NO.5

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2280/2011

SATISH DIDOLKAR & ORS.

Appellant(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln.(s) for Stay)

Date : 23/04/2015 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE R.K. AGRAWAL
HON'BLE MR. JUSTICE PRAFULLA C. PANTFor Appellant(s) Mr. R. Basanth, Sr. Adv.
Mr. U.S. Dastane, Adv.
Mr. Gagan Sanghi, Adv.
Mr. Karthik Ashok, Adv.
Mr. Rameshwar Prasad Goyal, Adv.For Respondent(s) Ms. Asha Gopalan Nair, Adv.
Mr. Aniruddha P. Mayee, Adv.UPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of in terms of the signed order.

(Gulshan Kumar Arora)
Court Master(H.S. Parasher)
Court Master

(Signed order is placed on the file)