

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3062 OF 2015

(Arising from SLP(C) No.17999/2013)

Pramod Kumar ..Appellant

versus

Union of India and others ..Respondents

WITH

SPECIAL LEAVE PETITION(CRIMINAL) NO...../2015  
(CRL.MP. NOS.15475-15476/2014)

O R D E R

Civil Appeal @ S.L.P.(C) No.17999 of 2013

Leave granted.

Learned counsel appearing for the appellant placed reliance inter alia on State of Punjab vs. Davinder Singh Bhullar (2011) 14 SCC 770, and invited our attention to the following observations recorded therein:

"Thus, in view of the above, it is evident that a constitutional court can direct CBI to investigate into the case provided the court after examining the allegations in the complaint reaches a conclusion that the complainant could make out prima facie, a case against the accused. However, the person against whom the investigation is sought, is to be impleaded as a party and must be given a reasonable opportunity of being heard. CBI cannot be directed to have a roving inquiry as to whether a person was involved in the alleged unlawful activities. The court can direct CBI investigation only in exceptional circumstances where the court is of the view that the accusation is against a person who by virtue of his post could influence the investigation and it may prejudice the cause of the complainant, and it is necessary

so to do in order to do complete justice and make the investigation credible."

In view of the above, without getting into the intricacies of the merits of the issues canvassed, we consider it just and appropriate, to remand the matter back to the High Court, requiring the High Court to adjudicate upon Writ Petition No.21801 of 2012 afresh, by impleading the appellant(s) in Criminal Original Petition Nos.2691 and 5356 of 2011, and by affording an opportunity to the appellant before this Court. In disposing of the aforesaid writ petition, the jurisdiction exercised by the High Court, would be under Article 226 of the Constitution of India.

In the above view of the matter, the order dated 5.12.2012 passed by the High Court while disposing of the above writ petition is hereby set aside. Parties are directed to appear before the High Court on 13.04.2015. We hope and trust, that the High Court shall dispose of the controversy at the earliest. Since, the appellant herein was not heard when the order dated 19.4.2011 was passed by the High Court while disposing of Criminal Original Petition Nos.2691 and 5356 of 2011, we consider it just and appropriate to further clarify, that the above order dated 19.4.2011, will not stand in the way of the appellant herein, when the High Court disposes of the matter afresh.

The instant appeal is disposed of in the above terms.

Pending applications, if any, are also disposed of.

S.L.P. (R) No. /2014 (Cr1.MP Nos.15475-15476/2014)

Permission to file the special leave petitions is granted.

Delay condoned.

In view of the order passed by this Court in the Civil Appeal arising from Special Leave Petition(C) No.17999 of 2013, nothing survives in these petitions and the same are accordingly disposed of.

.....J.  
[JAGDISH SINGH KHEHAR]

NEW DELHI;  
MARCH 17, 2015.

.....J.  
[S.A. BOBDE]

