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SLP(Crl.)No. 3491 OF 2000

ITEM No.28

Court No. 4

SECTION IIA
A/N MATTER

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. 3491/2000

(From the judgement and order dated 28/06/2000 in CRLM 8171/99
of The HIGH COURT OF PATNA AT RANCHI)

RAMA SHANKAR MANI TRIPATHI Petitioner (s)

VERSUS

STATE OF BIHAR & ORS. Respondent (s)

(With Appln(s). for stay)
(With Office Report)

Date : 26/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. K.D. Prasad, Adv.
Mr. A.N. Bardiyar, Adv.

For Respondent (s) Mr. R.S. Dwivedi, Adv.
Mr. K.L. Taneja, Adv.

For State of Bihar Mr. Kumar Rajesh Singh, Adv.
Mr. B.B. Singh, Adv.

UPON hearing counsel the Court made the following
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Leave granted.
Appeal stands allowed in terms of the signed order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. of 2001@@
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(Arising out of SLP(Crl) No. 3491/2000)

Rama Shankar Mani Tripathi ...Appellant (s)

Versus

State of Bihar & Ors. ...Respondent(s)

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Leave granted.

Heard the learned counsel for the appellant as well as the counsel appearing for the State of Bihar and the counsel appearing for the informant.

A complaint having been filed, the Magistrate took cognizance of the offence and the accused on moving an application to the High Court under Section 482 of the Code of Criminal Procedure, by the impugned order, the criminal proceeding has been quashed and thus the present appeal.

It is contended on behalf of the appellant that in exercise of power under Section 482 Cr.P.C., the High Court was not justified in shifting the evidence and coming to a conclusion that the initiation of the complaint proceeding was with some oblique motive for wreaking vengeance. It is too well settled that the High Court should exercise its power under Section 482 Cr.P.C. sparingly and on consideration of the materials on its face value, if it comes to a conclusion

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that still no offence is made out, it would be open for the Court to invoke its power under Section 482 Cr.P.C.. But the Court would not be justified in shifting the evidence as if it is exercising power of the Court in trial and interfere with an order taking cognizance of the offence. In that view of the matter, the impugned order, on the face of it, is unsustainable in law. We set aside the impugned order of the High Court and direct the Magistrate to continue with the proceeding. The appeal stands allowed accordingly.

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(G.B. PATTANAİK)@@
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New Delhi,
February 26, 2001.

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(B.N. AGRAWAL)@@
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