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SLP(Crl.)No. 3443 OF 2000

ITEM No.28

Court No. 4

SECTION II
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. 3443/2000

(From the judgement and order dated 06/06/2000 in CRLP 386/00
of The HIGH COURT OF KARNATAKA AT BANGALORE)

S.A. NANJUNDESWARA

Petitioner (s)

VERSUS

M/S. VARLAK AGROTECH & ORS.

Respondent (s)

(With prayer for interim relief)

Date : 23/02/2001 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. Tara Chandra Sharma,Adv.

For Respondent (s)

Mr. U.R. Lalit, Sr. Adv.

Mr.Khwairakpam Nobin Singh,Adv.

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

.....L.....I.....J.....
.SP2

Leave granted.

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

.SP1

(Suneet Bala Sahrma)
Court Master

(Manju Sharma)
AR-cum-PS

Signed order is placed on the file.

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.....OF 2001@@
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(Arising out of SLP (Crl.) 3443 of 2000)

S.A. Nanjundeswara ..Appellant

Versus

M.s Varlak Agrotech Pvt. Ltd. ..Respondent

O R D E R@@
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Leave granted.

.SP2

The appellant has filed this appeal against the order of the High Court quashing a complaint proceeding exercising its power under Section 482 of the Code of Criminal Procedure. On the basis of a complaint filed under Section 138 of the Negotiable Instruments Act after examining the complainant the Magistrate took cognizance of the offence and issued process. The accused Veralakshmi Gundu Rao assailed the order of taking cognizance and issuance of process by filing application in the High Court under Section 482 of the Code of Criminal Procedure. The High Court, by the impugned order, has quashed the said order of taking cognizance.

The sole contention of the appellant in this Court is that the High Court exceeded its jurisdiction under Section 482 of the Code of ...2/-

2.

Criminal Procedure, having tried to shift the materials and their coming to the conclusion that no case prima facie has been made out against accused Veralakshmi Gundu Rao.

On the basis of this statement made in the complaint, it was not open for the High Court to quash the proceedings against the respondent. Mr. Lalit appearing for the accused, on the other hand, contended that it was open even at that stage, for the High Court, to examine the prima facie material against the applicant who had moved the High Court under Section 482 of the Code of Criminal Procedure and, therefore, the High Court was justified in interfering with the order of the Magistrate so far as the applicant before the High Court is concerned.

Having examined the rival submissions and on examining the assertions made in the complaint and on scrutinising the impugned judgment of the High Court we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction by invoking the power under Section 482 of the Code of Criminal Procedure and quashing the

proceedings so far as accused Smt. Varalakshmi Gundu Rao is concerned. The High Court can be justified in quashing the proceedings only if it ...3/-

3.

comes to the conclusion that even the statements taken on the face value do not make out any offence. Obviously applying that standard it cannot be said that no offence has been made out against Smt. Varalakshmi Gundu Rao.

In this view of the matter we set aside the impugned order of the High Court and direct the Magistrate to take up the proceedings and conclude the same as expeditiously as possible. The appeal is disposed of.

.SP1

.....J.
(G.B. PATTANAIK)

.....J.
(B.N. AGRAWAL)

New Delhi,
February 23, 2001