

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1538 of 2015  
(Special Leave Petition (Crl) No. 4751/2013)

SUNIL KUMAR JAISWAL

Appellant(s)

VERSUS

SANJEEV NAGAR & ANR.

Respondent(s)

WITH

CRIMINAL APPEAL NO.1539 of 2015  
(Special Leave Petition (Crl) No. 4865/2013)

O R D E R

Application for impleadment in SLP (Crl.) No. 4865/2013 is allowed.

Leave granted.

These appeals arise out of a final order dated 26.02.2013 passed by the High Court of Sikkim at Gangtok whereby Crl.M.C. No. 01 of 2013 filed by the complainant and all consequential steps taken in the course of investigation; have been quashed.

FIR 48(9)12 dated 03.09.2012 was registered at Police Station Namchi in the south district of Sikkim for offences punishable under Sections 420, 409, 471 and 120B of the Indian Penal Code on the basis of a complaint made by the complainant - Sunil Kumar Jaiswal. The complainant alleged that the respondents Sanjeev Nagar and his nephew - Aayush Kapoor, resident of Maiden Travel, Maurian Park Street, Kolkatta had cheated the Company Director - Sunil Kumar Jaiswal of a sum of Rs.2.50 crores. The allegations contained in

the complaint suggested that the aforementioned two accused persons were working as travel agents and were known to the complainant. The complainant, it appears, proposed to send his children for admission to USA and to buy a house for the family in that country where the children would stay while they pursued their studies. The complainant sought the help of the accused persons in that connection. The respondent - Sanjeev Nagar is alleged to have even travelled to United States of America to finalize the property deal for and on behalf of the complainant. The complainant alleged that the accused persons manipulated original invoice copies, forged email papers and gave wrong bank details to induce the complainant to transfer a sum of Rs.2.50crores to an account in Hongkong by creating a fake email address in connection with the purchase of the house thereby duping the complainant of a heavy sum of money equivalent to 350000 USD. The complainant further alleged that after the transfer of the money in the manner aforementioned, the accused Sanjeev Nagar had disappeared while Aayush Kapoor feigned complete ignorance about his whereabouts.

On the basis of the above complaint, a case for offences punishable under Sections 420, 409, 471 and 120B IPC was registered by the Police and investigation started. The High Court has however quashed the complaint and the investigation by the order impugned

in the appeal.

We have heard Mr. A. Mariarputham, learned counsel for the State of Sikkim and Mr. Siddharth Luthra, learned senior counsel for the respondent at considerable length. We have also been taken through the documents placed on record including the complaint filed by the complainant and the documents that were collected during the course of investigation. We do not propose to express any final opinion on the merits lest any observation made by us causes any prejudice to either of them. Having said that, we cannot help observing and regretfully so that the present was not a fit case in which the High Court could have interfered not only because the complaint filed by the complainant in our view *prima facie* made out a case for investigation but also because the material collected during the course of the investigation suggested a possible involvement of the accused persons by reference to the incriminating circumstances emerging from the same. We had while entertaining this petition and issuing notice to the respondents stayed the operation of the order passed by the High Court. The investigation was therefore allowed to proceed and is in progress even at present. In the circumstances and for the reasons stated above, we are inclined to set aside the order passed by the High Court and allow the investigation to proceed, especially when, we are *prima*

*facie* of the opinion that the circumstances in which a substantial amount of money was transferred to a foreign account calls for a thorough probe if necessary by the Enforcement Directorate, to whom the matter may be referred by the police for discovering the true facts.

We accordingly allow these appeals, set aside the order passed by the High Court and dismiss CrI.M.C. No. 1/2013 filed by the respondent. Resultantly the investigating agency shall be free to continue with the investigation in the FIR registered at Namchi Police Station and to take the proceedings to their logical conclusion as expeditiously as possible.

We make it clear that any observations made by the High Court in the order under challenge or by us in the body of this order shall not be taken as a final opinion with regard to the merits of the case.

.....J.  
[T.S. Thakur]

.....J.  
[R. Banumathi]

NEW DELHI  
NOVEMBER 19, 2015

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 4751/2013

(Arising out of impugned final judgment and order dated 26/02/2013 in CRLMC No. 01/2013 passed by the High Court of Sikkim)

SUNIL KUMAR JAISWAL

Petitioner(s)

VERSUS

SANJEEV NAGAR & ANR.  
(With office report)

Respondent(s)

WITH

SLP(Crl) No. 4865/2013

(With appln.(s) for permission to file addl. counter affidavit and appln.(s) for permission to place addl. documents on record and appln.(s) for impleadment and Office Report)

Date : 19/11/2015 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE T.S. THAKUR  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Parties

Mr. A. Mariarputham, Adv. Gen.  
Ms. Aruna Mathur, Adv.  
Mr. Avneesh Arputham, Adv.  
Ms. Anuradha Arputham, Adv.  
Mr. Yusuf Khan, Adv.  
For M/s Arputham Aruna & Co.

Mr. Rajesh Mahale, Adv.  
Mr. Krutin R. Joshi, Adv.

Mr. Siddharth Luthra, Sr. Adv.  
Mr. Shishir Deshpande, Adv.  
Ms. Ruchira Gupta, Adv.

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

Application for impleadment in SLP (Crl.) No. 4865/2013 is allowed.

Leave granted.

The appeals are allowed in terms of the signed order.

(Meenakshi Kohli)  
Court Master

(Veena Khera)  
Court Master

[Signed order is placed on the file]