

SLP(Crl.)No. 3973 OF 2003  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2004  
(arising out of SLP(CRL.) No.3973 of 2003)

CHAMPAKLAL & ANR.....Appellants

Versus

State of M.P. ....Respondent

O R D E R

Heard learned counsel for the parties.

The impleadment application is allowed.

Leave granted.

The accused in the original complaint which is filed under Section 420 read with 34 IPC before the Chief Judicial Magistrate, Guna in Criminal Case No.41/2003 is before us in this appeal being aggrieved by the dismissal of his criminal petition filed under Section 482 CR.P.C. before the High Court for quashing the said complaint on the ground that the complaint discloses only civil offence and no criminal case is made out. The High Court, however, came to the conclusion that the petition also makes out a criminal liability, therefore, dismissed the petition for quashing that complaint.

In this appeal the parties have arrived at a compromise and out of the amount payable by the appellants in the complaint that is Rs.18,82,472/- the appellants herein have admitted and paid today by way of demand draft a sum of Rs.6,90,868/- which liability they admit, receipt of which respondent No.2 acknowledges. In regard to the balance of claim it is mentioned that there is a dispute in regard to Rs.11,91,604/- which will be settled in an appropriate proceeding which may be initiated by the aggrieved parties. Above facts itself disclose that the dispute is of a civil nature. In the said view we think the High Court was not justified in quashing the complaint.

Taking into consideration the contents of the memo of settlement filed before us and the fact that a sum of Rs.6,90,868/- is paid by way of demand draft to respondent No.2, we think the proceedings before the trial court in the above mentioned criminal case should be quashed leaving open the liberty to the respondent to proceed in an appropriate court to recover the balance amount. The parties can take any defence as is available to them in law.

The appeal is disposed of.

.....J.  
( N. SANTOSH HEGDE )

.....J.  
( B.P. SINGH )

NEW DELHI,  
APRIL 13, 2004.

ITEM No.2

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. 3973/2003

(From the judgement and order dated 05/05/2003 in MCRLC 1227/03  
of The HIGH COURT OF M.P AT GWALIOR)

CHAMPAKLAL & ANR.

Petitioner (s)

VERSUS

STATE OF M.P.

Respondent (s)

(With Appln(s). for stay and impleading party )  
( With Office Report )

Date : 13/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE B.P. SINGH

For Petitioner (s)Mr. Subrat Birla, Adv.  
Mr. S.C. Birla,Adv.

For Respondent (s)Mr. Shakil Ahmed Syed,Adv.

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

Impleadment application is allowed.

Leave granted.

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

(PAWAN KUMAR) (PREM PRAKASH)  
COURT MASTER COURT MASTER  
(signed order is placed on the file)