

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. 4111/2000

(From the judgement and order dated 15/09/2000 in CRLM 13/99
of The HIGH COURT OF DELHI AT N. DELHI)

IQBAL SINGH MARWAH & ANR.

Petitioner (s)

VERSUS

MEENAKSHI MARWAH & ANR.

Respondent (s)

(With Appln(s). for ex-Parte stay and
exemption from filing c/c of the impugned Judgment)

Date : 08/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s) Mr. R.K.Jain,Sr.Adv.
Mr. B.K.Satiya,Adv.
Ms. Shautha Devi Rama,Adv.

For Respondent (s) M/s.Y.P.Narula,Abijeet Chatterjee &
Mr. Chanchal Kumar Ganguli,Advs.

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

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The question for consideration in this case is whether though the allegation in the complaint filed relates to an act of forgery of a document which is the subject matter of a pending probate proceeding, bar under section 195, Cr.P.C. for taking cognizance would apply or not. In Sachida Nand Singh Vs. State of Bihar & Anr. (1998) 2 SCC@
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493, the 3-Judge Bench of this Court have come to a conclusion that unless and until the alleged forgery is said to have been committed in respect of a document, which was in the custody of the Court, then the bar under section 195 will

not get attracted. This broad conclusion has not taken into consideration as to how the alternative in section 195 (1) (b) (ii) of the Code of Criminal Procedure 'was given in evidence in a proceeding' could be construed. In the aforesaid premises, we think it appropriate that the matter

should be referred to a larger Bench and the records of the proceeding may be placed before Hon'ble the Chief Justice of India for constituting a larger Bench to consider this question. Pursuance to the summons issued in the complaint case, the accused must appear before the Magistrate and then apply for bail and on such an application for bail being filed, he may be released on bail. The further proceeding in the criminal case may thereafter be stayed. The probate proceeding may come to logical conclusion as expeditiously as possible.

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(Y.P.Dhamija)

(Suneet Bala Sharma)@@

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