

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).5452/2008

(From the judgement and order dated 26/02/2008 in Crl.Misc.  
No.26118/2007 of The HIGH COURT OF PATNA)

BRAHMDEO PD.SAHU

Petitioner(s)

VERSUS

HARIBANSH RAM & ORS.

Respondent(s)

[With appln(s) for stay]

Date: 19/01/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

For Petitioner(s) Mr. A.P. Sahay, Adv.

Mr. Gauri Shanker, Adv. for  
Mr. Chander Shekhar Ashri, Adv.

For Respondent

Mr Pavan Kumar, Adv.

Nos.1 to 5

Mr. Prithvi Pal, Adv.

No.6-State

Mr. Gopal Singh, Adv.

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

The appeal is allowed in terms of the signed order.

(Subhash Chander)  
A.R.-cum-P.S.

(Pushap Lata Bhardwaj)  
Court Master

[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.118 OF 2009  
[Arising out of S.L.P.(Crl.)No.5452 of 2008]

Brahmdeo Pd. Sahu

.....Appellant

Versus

Haribansh Ram & Ors.

.....Respondents

ORDER

Leave granted.

Appellant filed a complaint bearing No.389 of 2006. The learned

S.D.J.M., vide order dated 17th April 2007, took cognizance of the offence and issued summons, amongst others, to the private respondents herein.

A revision petition against the said order was filed by the private respondents herein. By the impugned judgment dated 26 th February 2008, the High Court has quashed the aforementioned complaint proceeding.

Having heard the learned counsel for the parties, we are of the opinion that the impugned judgment cannot be sustained as while quashing the order issuing summons against the private respondents herein in Complaint Case No.389 of 2006, the High Court has not only entered into the arena of appreciation of evidence but has also considered the purported contradictions in the statements made by the witnesses examined on behalf of the complainant as well as the purported motive on the part of the appellant herein as regards false implication of the respondents.

Crl.A. @ SLP(Crl.)No.5452/08 .... (contd.)

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Such a question, in our opinion, could not have been gone into by the High Court at this stage. All such contentions evidently would fall for consideration by the trial Judge at the time of trial.

The impugned judgment is, therefore, set aside and the appeal is allowed. Consequently, the aforementioned complaint case is restored to file.

Sd/-

.....J.  
[S.B. SINHA]

Sd/-

.....J.  
[DR. MUKUNDAKAM]

SHARMA]  
New Delhi.  
January 19, 2009.