

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(s).4565/2005

(From the judgement and order dated 24/01/2005 in CRLWP No. 199/2003  
of The HIGH COURT OF BOMBAY)

Y.K. SHANKARDASS

Petitio ner(s)

VERSUS

STATE OF MAHARASHTRA & ANR.

R espondent(s)

(With appln(s) for c/delay in filing SLP and stay and office report ))  
(For Final Disposal)

Date: 10/11/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Petitioner(s)

Ms. Meenakshi Arora,Adv.

For Respondent(s)

Mr. V.N. Raghupathy,Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeal is allowed in terms of the signed order.

(Ajay Kr. Jain)

(Vijay Dhawan)

Court Master  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1146 OF 2006

(Arising out of SLP(Cr1.) No. 4565 of 2005)

Y.K. Shankardass  
Appellant

....

Versus

State of Maharashtra & Anr.  
Respondents

....

O R D E R

Delay condoned.

Leave granted.

We have heard counsel for the parties.

It appears that for carrying out repairs of a building, the appellant herein along with one S.P.

Jain was nominated as joint no objection certificate holder. It is the case of the prosecution that two persons,

namely, Smt. Rama Tantia and Shri P.K. Jain made certain unauthorised constructions within their premises.

They were, therefore, prosecuted but the joint no objection certificate holders were also prosecuted along with

the two tenants who had made unauthorised constructions.

It appears that subsequently so far as one of the tenants namely Shri P.K. Jain is concerned, he

was discharged since no sanction under Section 143 of the Maharashtra Regional Town Planning Act, 1966

was obtained. Later in another proceeding, the High Court quashed the prosecution as against Shri S.P. Jain

the joint no objection certificate holder. The proceeding against one S.P. Rao, the architect, was also quashed

by the High Court. Only the appellant and Smt. Rama Tantia remain to be prosecuted under the

Maharashtra Regional Town Planning Act, 1966.

We have perused the order of the High Court dated 10.1.2002 quashing the prosecution against

Mr. S.P. Jain. The learned Judge held that merely because the No Objection Certificate stood in the name of

the appellant he could not be prosecuted for unauthorised construction carried out by the contractor and the

architect on the floors which were admittedly not occupied by the appellant. The High Court, therefore, set

aside the order of the Sessions court and consequently the said S.P. Jain was discharged. We entirely agree

with the High Court.

Having considered all aspects of the matter, and particularly the fact that the case of the

appellant stands on the same footing as that of Mr. S.P. Jain, we allow this appeal and set aside the judgment

and order of the High Court impugned herein and allow the application for discharge filed by the appellant.

.....J.

(B.P. SINGH)

.....J.

(LOKESHWAR SINGH PANTA)

New Delhi

November 10, 2006