

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.627/2017

ADIL NOSHIR MITHAIWALA Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. Respondent(s)

WITH
CRIMINAL APPEAL NO.628/2017

O R D E R

The brief facts leading upto filing of the present appeals are that the appellants have been arraigned as the accused persons in CC No. 392/2012 for the offences punishable under Sections 420/406/408/409/477A read with Sections 120-B and 34 of the Indian Penal Code, 1860 pursuant to the complaint filed by respondent No.2 - M/s Asia Exchange Centre, which is a registered firm based in the United Arab Emirates through respondent No.4 - Anees Aravindakshan who was acting as the Power of Attorney Holder, since the complainant firm neither had any branch office in India, nor did it conduct any business in the country.

The short issue for consideration in the present appeals is as to whether the proceedings under Section 200 of the Code of Criminal Procedure, 1973,

followed by the issuance of process, can be sustained in the eye of law, in a case where the same issue was previously raised and adjudicated on by both the civil and criminal Courts in a foreign country and have attained finality.

In the present case, for the same alleged offence, the private respondents who have not appeared before us, despite notice having been served, had earlier invoked both the civil and criminal jurisdiction in the United Arab Emirates. The earlier criminal complaint filed by the firm through its proprietor, i.e. respondent No. 3 herein before us was dismissed. The civil suit instituted by him also suffered the same fate. Thereafter, the complainant firm through its Power of Attorney holder has sought to invoke criminal proceedings before the jurisdictional Magistrate in India. It appears that in the subject complaint, the earlier civil and criminal proceedings which have attained finality before the competent Courts in the United Arab Emirates, have not been mentioned.

Therefore, continuing the criminal proceedings against the appellants would be an abuse of process of law as certainly, it would amount to double jeopardy. The private respondents after initiating an action on their own in a different country and

having concealed the dismissal of the criminal complaint and the appeal thereafter, along with the dismissal of the suit filed by them, cannot file the subject complaint, that too through a Power of Attorney holder. It is a settled principle of law that an agent cannot depose in favour of the principal with respect to facts which are within the exclusive knowledge of the latter. The said position has also been taken note of by this Court in '*M/s Naresh Potteries v. M/s Aarti Industries*', 2025 SCC OnLine SC 18.

Thus, we have no hesitation in holding that the proceedings initiated by the private respondents are nothing but an abuse of process of law. Perhaps, that is the reason why they have chosen not to appear before this Court, despite notice having been served.

Therefore, the proceedings arising out of Complaint Case No. 392/2012, titled, '*Asia Exchange Center v. Sonia Gobind Gidwani and Another*' stand quashed.

Accordingly, the appeals stand allowed.

Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[SATISH CHANDRA SHARMA]

NEW DELHI;
NOVEMBER 13, 2025.

ITEM NO.123

COURT NO.6

SECTION II

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

Criminal Appeal No(s). 627/2017

ADIL NOSHIR MITHAIWALA

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

WITH

Crl.A. No. 628/2017 (II)

Date : 13-11-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Appellant(s) Mr. Atma Ram Nadkarni, Sr. Adv.
 Mr. Sidharth Dave, Sr. Adv.
 Mr. Ankur Chawla, Adv.
 Mr. Rahul Pratap, AOR
 Mr. Aamir Khan, Adv.
 Ms. Deepti Arya, Adv.
 Ms. Himanshi Nagpal, Adv.
 Ms. Manisha Gupta, Adv.
 Mr. Sanjay Chadha, Adv.
 Mr. Muhammad Maroof, Adv.

For Respondent(s) Ms. Ruchira Goel, AOR
 Mr. Goutham Shivshankar, Adv.
 Mr. Vikas Bansal, Adv.

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

The appeals are allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(ASHA SUNDRIYAL)
DEPUTY REGISTRAR

(POONAM VAID)
ASSISTANT REGISTRAR

[Signed order is placed on the file]