

ITEM NO.2

COURT NO.4

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

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3755/2013

(Arising out of impugned final judgment and order dated 08/03/2013
in CRMWP No. 3660/2013 passed by the High Court Of Judicature at
Allahabad)

SACHIN DUGGAL & ORS.

Petitioner(s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(with appln. (s) for stay and office report)

WITH

SLP(Crl) No. 5551/2013

(With appln.(s) for stay and appln.(s) for bringing subsequent
events on record and filing addl. documents and Office Report)

Date : 14/10/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. V. Giri, Sr. Adv.
Mr. pramod Gupta, Adv.
Mr. Gaurav Kejriwal, Adv.

For Respondent(s)

Mr. Bhanwar Pal Singh Jadon, Adv.
Mr. Karmendra Pratap Singh, Adv.
Mr. Rovin Babu, Adv.
Dr. Rajeev Sharma, Adv.

Mr. Gaurav Bhatia, Adv.
Mr. Abhishek Chaudhary, Adv.

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

Leave granted.

The appeals are allowed in terms of signed order.

(Neeta)
Sr. P.A.
(Signed order is placed on the file)

(Usha Sharma)
COURT MASTER

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2226 OF 2014
(Arising out of SLP(Crl.) No. 3755 of 2013)

SACHIN DUGGAL & ORS.

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

WITH

CRIMINAL APPEAL NO. 2227 OF 2014
(Arising out of SLP(Crl.) No. 5551 of 2013)

O R D E R

Leave granted.

These appeals have been preferred by appellants against Order dated 08.03.2013 passed by High Court of Judicature at Allahabad in Criminal Miscellaneous Writ Petition No.3660 of 2013 and order dated 14th February, 2013 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Writ Petition No. 1909 of 2013. By the impugned Orders, the High Court observed that prima facie cognizable offence is made out and thereby refused to interfere in the F.I.R., which was under challenge. The Court further observed, that in view of provision of Section 157 of Criminal Procedure Code, the appellant may not be arrested till credible evidence is not collected by the Investigating Officer (I.O.) during such investigation.

The FIR in question was lodged by complainant - Respondent No. 3 on 02.02.2013. It was alleged that the appellants are officers of the T.N.T. Courier Company having its head office at Bangalore and its Branch Office at Moradabad. The appellants were to deliver goods booked by the complainant safely. On 01.06.2012 in the Regional Office of the TNT Company, the appellant - Mohit Kumar Tyagi was contacted by complainant to discuss about sending of the Silver Plated Plastic and Brass ware goods which were produced by his Company, by invoice value which is about Rs.25,59,075/- & 1500 cartons were handed over to them but only 1498 cartons were delivered to the destination place and the complainant have not been informed about whereabouts of the balance 2 cartons.

It was also alleged that appellants, officers of T.N.T. Company with common intention and planning have cheated the complainant -Respondent No. 3 by usurping his goods, due to which the complainant had suffered a loss of Rs.25,59,075/-. It was further alleged that the appellants have committed criminal acts and under a criminal conspiracy, knowingly forwarded false and forged e-mails and projected them as truth and for the said reason, the transaction needs to be investigated by the Police and acts of the appellants constitute offence under Sections 420, 120B, 467, 468, 469, 471 IPC.

The appellants challenged the FIR on different counts. While it was pleaded that the acts allege is a civil dispute, the appellants brought to the notice of the Court that a consumer

complaint has already been lodged by the complainant-Respondent No. 3 and without disclosing the pendency of the consumer complaint for the same transaction, after 4 months the FIR in question has been lodged. In the F.I.R. also no specific allegation has been made about the involvement of one or other appellants.

It was also pleaded that complainant-Respondent No. 3 under Section 156(3) CrI.P.C. made false statements before the ACJM-IV, Moradabad that he has incurred a loss of Rs.25,59,075/- though the value of misplaced 2 cartons is only Rs.3,412/-.

It is submitted that the High Court without referring to the aforesaid stand taken by the appellants, refused to set aside the FIR on the ground that a prima facie cognizable offence is made out.

We have heard learned counsel for the parties and perused the documents attached with the appeal.

From the record, we find that appellants are officers of a Courier Company i.e. T.N.T. India Private Limited. There is no specific allegation made in the FIR against one or other appellants about any offence committed by any one or the other appellant. The complainant-Respondent No. 3 has suppressed from the Court that it is a civil dispute for which a consumer case has already been lodged by the complainant and the District Forum has already awarded compensation of Rs.1 lac in favour of complainant-Respondent No. 3, which has been challenged by the appellants and its company before the State Forum and is pending.

Apart from the fact that the FIR lodged does not disclose any specific allegation against one or other appellant, we find that the averments made therein do not constitute any offence under any of the relevant provisions of the IPC. In that view of the matter, on the basis of F.I.R. in question the criminal law cannot be set into motion. We are of the view that it was a fit case where the High Court ought to have interfered with the FIR, which does not constitute any offence under the provisions of IPC. For the reasons aforesaid, we quash the FIR dated 02.02.2012 in Case Crime No. 21 of 2013 registered at P.S. Galshahid, District Moradabad in so far it relates to the appellants and allow the appeal.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(S.A. BOBDE)

NEW DELHI;
OCTOBER 14, 2014

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