

¢-

SLP(Crl.)No. 2618-2619 OF 2000

ITEM No.35

Court No. 4

SECTION IIA
A/N MATTER

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. 2618-2619/2000

(From the judgement and order dated 12/08/1997 in CRLA 647,648/95
of The HIGH COURT OF BOMBAY)

MEERA SHRIPAT ADMANE

Petitioner (s)

VERSUS

CHIEF OFF.,SANGAMNER MUNICIPAL COUN.&ORS

Respondent (s)

(With Appln(s). for deletion of the name of respondent)
(With Office Report)

Date : 12/02/2001 This Petition was called on for hearing today.

CORAM :

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

For Petitioner (s)

Mr. A.K. Sanghi,Adv.

For Respondent (s)

Mr. Sunil Kr. Verma,Adv.with
Mr. Shivaji M. Jadhav,Adv.

Mr. S.C. Birla,Adv.

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

.....L.....I.....T.....T.....T.....T.....J.

.SP2

Leave granted.
The appeals are disposed of.

.SP1

(Y.P.Dhamija)

(Suneet Bala Sharma)@

AA
COURT MASTER COURT MASTER

Signed order is placed on the file.

.PA

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO...../2001
(arising out of SLP(CRL) Nos.2618-2619/2000)

Meera Shripat Admane ...Appellant

Vs.

Chief Officer, Sangamner ...Respondents
Municipal Council and Ors.

O R D E R@@
EEEEEEEEEEEE

.....L.....I.....T.....T.....T.....T.....J.
.SP2

Leave granted.
Name of respondents 2 and 3 be deleted.

Heard Mr. A.K.Sanghi, who had been appearing in the Court as Amicus Curiae and learned counsel appearing for Municipal Corporation as well as the one Dr. R.K. Malpani. This appeal is by the complainant whose complaint stood dismissed on 14.7.1992 for her non-appearance and the accused persons were acquitted. Against the said order, the complainant initially filed an application for restoration and that restoration application having been dismissed, she moved by filing a revision. When it was pointed out that revision would not be maintainable then she approached for grant of leave in the year 1995. The High Court, however, not being impressed by the reasons for that the delay in moving the Court and having dismissed the same, she has approached this Court. The sole grievance of the complainant

- 2 -

is that on the date the complaint stood dismissed for non-appearance of the complainant, she was observing 'shraddha', religious rituals on account of which she could not attend the Court and then for the delay in question, she makes a complaint that she was ill advised to move for restoration and a revision, and therefore in fitness of things, the matter should be remitted back to the Magistrate for continuing the complaint proceedings. The learned counsel appearing for the Municipal Corporation as well as for Dr. Malpani contended that long 8 years have elapsed in the meantime and it would not be in the interest of justice to remit the matter back to the Magistrate for re-trial. The allegation is that, though Dr. Malpani has encroached upon the municipal land adjoining the land belonging to the complainant, and has started a construction in a manner so as to cause danger, the municipal authorities have not taken any steps and as such a case under section 166 of the I.P.C. is made out. In view of the allegation in the case and in view of the circumstances indicated above, we are inclined to remit the complaint case to the Magistrate for re-disposal. We, accordingly, set aside the impugned order of the High Court and allow these appeals and direct the Magistrate concerned to dispose of the complaint case at an early date.

- 3 -

The complainant is directed to present herself before the concerned Magistrate on 19th March, 2001, whereafter the Magistrate will fix the hearing of the case and dispose it of in accordance with law. The accused persons, who are present before us, are directed to appear before the Magistrate on the same day.

.SP1

.....J.
(G.B. PATTANAİK)

New Delhi,
February 12, 2001

.....J.
(U.C. BANERJEE)