

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).5967/2008

(From the judgement and order dated 23/04/2008 in CRLM No.
48316/2007 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

SANTOKH SINGH

Petitioner(s)

VERSUS

KULVANT KAUR & ANR.

Respondent(s)

(With appln(s) for stay,exemption from filing c/c of the impugned
order

Date: 12/03/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s)

Ms. Jaspreet Gogia,Adv.

For Respondent(s)

Mr. Abhijat P. Medh,Adv.

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

The Special Leave Petition is dismissed in terms of the
signed order.

(Kusum Syal)
Sr.P.A

(Juginder Kaur)
Court Master

(Signed Order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION(CRL.) NO. 5967 OF 2008

SANTOKH SINGH

Petitioner(s)

VERSUS

KULVANT KAUR & ANR.

Respondent(s)

O R D E R

1. This Special Leave Petition is directed against the

judgment and order dated 23.4.2008 passed by the Punjab & Haryana High Court in Criminal Miscellaneous No. 48316-M of 2007 allowing the application filed by the respondent No.1 under Section 482 Cr.P.C for quashing the FIR No.400 dated 11.10.2006 under Sections 406 and 420 IPC of Police Station Pehowa, District Kurukshetra, and all criminal proceedings and charges against the said respondent, while directing the prosecution to continue against the co-accused Amarjit Kaur.

2. The complainant, who was aggrieved by the said order, has filed the instant Special Leave Petition on the ground that the High Court was not justified in invoking its jurisdiction under Section 482(1) Cr.P.C since charges have already been framed by the Sub-Divisional Judicial Magistrate, Pehowa, upon holding that there was sufficient material to frame such charges against the respondent No.1.

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3. Ms. Gogia, learned counsel appearing for the petitioner in support of the Special Leave Petition, urged that the High Court erred in interfering at this stage, particularly when charges had been framed by the trial court, and should have left the matter to the trial court for a decision on evidence to be adduced on behalf of the prosecution. In support of her submission, she referred to the decision of this Court in State of M.P. Versus Rakesh (2004) 13 SCC 523 in which this court has observed as follows:

"At this stage, we are not concerned with the merits or demerits of the case of the prosecution or the defence of the accused-respondent. So also, when the High Court was considering a petition under Section 482 Cr.P.C, it could not delve into merits and quash the charges by a cryptic order which is in question. The contention that there is no evidence on record to prove the charges framed against the respondent is of no relevance. In case, there is no evidence, on appreciation thereof, the Court of Session would decide Sessions Trial No. 30 of 2002. Without examining any of these relevant considerations, the charges were ordered to be dropped against the respondent. The impugned order is

wholly unsustainable."

4. Ms. Gogia submits that in view of the said decision, the High Court should have rejected the respondent No.1's application under Section 482 Cr.P.C. She has also submitted that the order of the High Court is wrong in indicating that while there was sufficient material to proceed against the co-

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accused Amarjit Kaur, there was nothing, in fact, to indicate that the respondent No.1 was in any way connected with the alleged profession being carried on by the co-accused or that she had anything to do with the business of sending people abroad.

5. On the other hand, learned counsel for the respondent No. 1 urged that merely because of the relationship between the co-accused and the respondent no.1, it could not be said that she had done anything in connivance with the co-accused Amarjit Kaur. It was also submitted that from the judgment itself it would be evident that no part of the amount alleged to have been paid to the accused Amarjit Kaur was ever received by the respondent No.1 who is about 20 years of age and is a student studying in Guru Nanak Girls' College.

6. The decision cited by Ms. Gogia indicates that this court was of the view that while considering a petition for quashing under Section 482 Cr.P.C the Court should not delve into merits and quash the charges by a cryptic order. That is not so in the instant case, where the matter has been well considered and reasons have been duly given in addition to the finding that the proceeding against the respondent No.1 amounted to abuse of the process of court.

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7. In that view of the matter, we are not inclined to interfere with the judgment and order impugned in the Special Leave Petition and the same is, accordingly, dismissed.

.....J
(ALTAMAS KABIR)

.....J
(CYRIAC JOSEPH)

NEW DELHI
MARCH 12, 2010