

H  
SLP(Crl.)No. 4653 OF 2000

ITEM No.34

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. 4653/2000

(From the judgement and order dated 31/10/2000 in CRWJC 238/2000  
of The HIGH COURT OF PATNA)

KAILASH RAM

Petitioner (s)

VERSUS

STATE OF BIHAR & ANR.

Respondent (s)

( With Appln(s). for stay & cancellation of non-bailable warrants.  
and exemption from filing O.T. )  
( With Office Report )  
With

SLP(Crl.)No. 142/2001

Date : 10/09/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK  
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. P.N. Mishra,Sr.Adv.  
Mr. Manoj Saxena,Adv.  
Mr. Pravir Choudhary,Adv.

For Respondent (s) Mr. K.B. Sinha,Sr.Adv.  
Mr. N.N. Ojha,Adv.  
Mr. Bharat Sangal,Adv.  
  
Mr. B.B. Singh,Adv.

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

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

SLP(CRL) 4653/2000: Heard.@@  
EEEEEEEEEEEEEEEEEEEE

The SLP is dismissed.

SLP(CRL) 142/2001: The cognizance having been taken@@  
EEEEEEEEEEEEEEEEEEEE

in a complaint proceeding, the accused moved this Court  
alleging, inter-alia, that the cognizance could not have been  
taken in view of the bar under section 197, Cr.P.C. We are

not examining the merits of the contention inasmuch as on the materials in the complaint proceeding, as it stood, no Court could come to the conclusion that the accused had committed the alleged offence in discharge of his official duty, attracting thereby section 197, Cr.P.C. Mr. Mishra appearing for the accused, however, states that there are several documents including the relevant case diary, and the station diary entries, which would indicate that the accused persons were discharging their duties as Police Officers, and section 197 would get attracted. It would be for the accused to move the Magistrate concerned in this regard. It has been stated by this Court in several cases that the question of applicability of section 197 Cr.P.C. can be taken at any stage in the criminal proceedings. In that view of the matter, the petitioner is allowed to withdraw the application on the ground that he will move the Magistrate concerned. The rejection of the application under section 482 by the High Court would not stand as a bar for moving the Magistrate. The Special Leave Petition is dismissed as withdrawn.

.SP1

(Y.P.Dhamija)

(Suneet Bala Sharma)@@

AA

Court Master

Court Master@@

AA