

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).2389 OF 2010

GEN.MANAGER, INDIAN OIL CORP.LD. & ORS. APPELLANT(S)

VERSUS

SACHINDRANATH MAJUMDAR & ANR. RESPONDENT(S)

O R D E R

The appellants herein have questioned the correctness of the order dated 12.11.2008 passed by the High Court of Calcutta, in C.R.R. No.1781 of 2006, declining to exercise the jurisdiction under Section 482 of the Code of Criminal Procedure (for short 'the Code'), for quashing the summoning order, issued by the learned Chief Judicial Magistrate, Purulia (for short 'learned CJM') in C.I.No. 48 of 2005, instituted by respondent no. 1 for certain offences under the provisions of Standards of Weights and Measures Act, 1976 (for short 'Act of 1976'), under the provisions of the Standard of Weights and Measures (Enforcement) Act, 1985 (for short 'Act of 1985) and under relevant rule(s) of the Standard of Weights and Measures (Packaged Commodities Rules, 1977.

Learned Additional Solicitor General Ms. Pinky Anand submits that appellant no. 1 and appellant no. 3 are not the officers, who are responsible to the respondent no. 2- Indian Oil Corporation Ltd. (for short 'the Corporation'), for the conduct of business of the Corporation as well as the Corporation, to array them as accused persons to punish them for the offences alleged against them. Therefore, issuance of summons to the appellants herein without discerning from the allegations made against them in the complaint filed by respondent no. 1 is totally perverse and without application of mind. Therefore, issuance of summons against the appellant nos. 1 and 3, the General Manager and the Town Area Manager, Indane Area Office of the Indian Oil Corporation Limited by placing reliance upon the unreported decision of the High Court of Calcutta dated 28.08.2006, passed in C.R.R. No.2528 of 2005 connected with C.R.R. No. 685 of 2006 and C.R.R. No. 686 of 2006, the said officers have no nexus to the offences committed, whereas similar legal contentions have been raised in the appeal filed for consideration with reference to the provisions of Section 74 (1) of the Act of 1976 and the High Court considered the contentions urged on behalf of the Corporation, keeping in view the scope and ambit of the power exercised under Section 74 of the Act of 1976, when the cognizance is taken for the

issuance of summons under the provisions of the Act of 1976, referred to supra. The Calcutta High Court has made certain observations regarding the role of the Chairman and the General Manager of the Corporation and exercise of power for issuance of summons by the learned CJM on a complaint filed under the statutory provisions of the Act of 1976 and held that the Chairman and General Manager are not responsible for the day to day functioning of the Corporation but they are responsible only with regard to making of policies of the Corporation for running its business for which purpose it has been incorporated. Therefore, learned Additional Solicitor General submits that the said observations made in the judgment of the Calcutta High Court aptly apply to the fact situation as in the absence of averments made in the complaint by respondent no. 1 about the individual role of the officers, namely, appellant nos. 1 and 3, to make them liable for statutory offences under the provisions of the Act of 1976, referred to supra, the summoning order ought not to have been passed. Therefore, she submits that both the learned CJM as well as the High Court have not applied their mind to the averments made in the complaint to examine legal contentions raised in the proceedings before the issuance of summons and not exercised its power under Section 482 of the Code to

quash the proceedings.

Mr. Anip Sachthey, learned counsel appearing for the respondents sought to justify the issuance of summons on the basis of allegations contained in the complaint and contended that the learned CJM has rightly taken the cognizance and issued the summons having regard to the averments made in Paragraphs 3, 4, 7, 8, 9 and 10 of the complaint and further submits that at the time of issuance of summons it is not necessary for the learned Magistrate to pass a reasoned order. He submits that issuance of summons has taken place after following due procedure, as contemplated in the Code and the learned CJM has taken the cognizance and found that a prima facie case is made out by respondent no. 1-complainant for issuance of summons against the appellants herein and accordingly, the learned CJM has issued the summons, which cannot be found fault with by the appellants at this stage. He further submits that there is a prima facie case for trying the appellants herein for the offences alleged against them and, therefore, he contends that the High Court has rightly declined to interfere with the order of issuance of summons after noting the legal contentions advanced on behalf of the appellants and by passing a detailed and reasoned order, which need not be interfered with by

this Court in exercise of appellate jurisdiction of this Court.

We have heard the rival legal contentions, perused the order of the High Court and noticed that the learned CJM has issued the summons without application of mind as to which of the officers have acted in exercise of power under the provisions of the Act of 1976. The persons who are responsible for the conduct of the business of the Corporation shall be deemed to be guilty of the offences on behalf of the Corporation and shall be liable to be proceeded against and be punished accordingly. In our considered view, the learned CJM was required to discern from the allegations made in the complaint and ought to have issued the summons on the basis of the allegations made in the complaint against the persons who are in-charge and responsible, indicating the role of the officers with regard to the conduct of the business of the Corporation as well as the Corporation, which has not been done in the case in hand. Though learned Mr. Sachthey is right in contending that having regard to the facts and circumstances of the case, the allegations made against the appellants herein and the statutory offences alleged against the Corporation for issuance of summons after taking cognizance of the complaint, there need not be

speaking order, however, in our considered view, it is the duty of the learned CJM to discern from the facts narrated in the complaint as to who are the persons in-charge and responsible for the conduct of the business of the Corporation and the Corporation in relation to the offences alleged against them. Further, we find that the High Court also has not applied its mind in this regard. Therefore, we are of the view that the order of the learned CJM as well as the High Court are liable to be set aside. Accordingly, we set aside the same. Further, we remand the matter to the learned CJM with a direction to decide the case afresh in accordance with law after taking into consideration the provisions of the Code and the Act of 1976.

With the aforesaid directions and observations, we dispose of the appeal.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
OCTOBER 09, 2014

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).2399 OF 2010

GAUTAM DATTA & ANR.

APPELLANT(S)

VERSUS

SANDIP META & ANR.

RESPONDENT(S)

O R D E R

This appeal is disposed of in terms of the order passed by this Court in Criminal Appeal No. 2389 of 2010.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
OCTOBER 09, 2014

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S) .334 OF 2011

M.S. RAMACHANDRAN & ANR.

APPELLANT (S)

VERSUS

STATE OF WEST BENGAL

RESPONDENT (S)

O R D E R

This appeal is disposed of in terms of the order passed by this Court in Criminal Appeal No. 2389 of 2010.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
OCTOBER 09, 2014

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S) .945 OF 2011

GAUTAM DATTA & ANR.

APPELLANT(S)

VERSUS

SANDIP META & ANR.

RESPONDENT(S)

O R D E R

This appeal is disposed of in terms of the order passed by this Court in Criminal Appeal No. 2389 of 2010.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
OCTOBER 09, 2014

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S) .946 OF 2011

GAUTAM DATTA & ANR.

APPELLANT (S)

VERSUS

SANDIP META & ANR.

RESPONDENT (S)

O R D E R

This appeal is disposed of in terms of the order passed by this Court in Criminal Appeal No. 2389 of 2010.

.....J.
(V. GOPALA GOWDA)

.....J.
(ADARSH KUMAR GOEL)

NEW DELHI,
OCTOBER 09, 2014

ITEM NO.105

COURT NO.13

SECTION IIB

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). 2389/2010

GEN.MANAGER, INDIAN OIL CORP.LD.& ORS.

Appellant(s)

VERSUS

SACHINDRANATH MAJUMDAR & ANR.

Respondent(s)

(with appln. (s) for stay)

WITH

Crl.A. No. 2399/2010

Crl.A. No. 334/2011

(With Office Report)

Crl.A. No. 945/2011

Crl.A. No. 946/2011

Date : 09/10/2014 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Ms. Pinky Anand, ASG
Mrs. Priya Puri, Adv.
Mr. R. Dubey, Adv.
Ms. Kritika Sachdeva, Adv.
Ms. Saudamini Sharma, Adv.

For Respondent(s) Mr. Anip Sachthey, Adv.
Ms. Shagun Matta, Adv.
Mr. Saakaar Sardana, Adv.

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

The appeals are disposed of in terms of the separate signed orders.

(VINOD KUMAR)
COURT MASTER

(MINAKSHI MEHTA)
COURT MASTER

(Signed orders are placed on the file(s))