

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

Peti tio n (s) for Speci al Leave to Appe al (Crl) No(s) . 6 8 7 6/ 2 0 0 8

(F r o m the judge m e n t and order dated 22/08/2 0 0 8 in CRLM No. 94 0 0/ 2 0 0 8 & CRLM No. 364 8 8/ 2 0 0 8 of The HIGH COUR T OF PU N J A B & HAR Y A N A AT CHA N D I G A R H)

J A S P R E E T S I N G H

Peti ti o n e r (s)

VER SU S

S T A T E O F U.T.CH A N D I G A R H & A N R .

Respo n d e n t (s)

(Wit h appl n (s) for stay and office repo r t)

Date: 06/07/2 0 0 9 This Peti tio n w a s called on for heari n g today.

COR AM :

HON'BL E MR. J U S T I C E D A L V E E R B H A N D A R I
HON'BL E DR. J U S T I C E M U K U N D A K A M S H A R M A

Fo r Peti ti o n e r (s)

Mr. K. S. Bassi, adv.
Mr. Vipi n Gogia, Adv.

Ms. J a s p r e e t Gogia, A d v .

Fo r Respo n d e n t (s)

Mr. Manoj S w a r u p , Ad v.
Mr. A k s h a t Goel, Ad v.

Mr. Aja y Ku m a r , A d v .

Mr. Gop al Sing h ,Ad v

Ms. Vi m l a Sin h a, Adv.

UPO N heari n g couns el the Cour t made the follo w i n g
O R D E R

Leave gran te d.
The appeal is dispo sed of in ter m s of the signed order.

(S u k h b i r Paul Kau r)
Cou r t Master

(Neer u Bala Vij)
Cour t Master

(Sig n ed Order is placed on the file)
I N T H E S U P R E M E C O U R T O F I N D I A
C R I M I N A L A P P E L L A T E J U R I S D I C T I O N

C R I M I N A L A P P E A L N O . 1 1 4 5 O F 2 0 0 9
(A r i s i n g o u t o f S L P (C r l .) N o . 6 8 7 6 o f 2 0 0 8)

J A S P R E E T S I N G H
)

A P P E L L A N T (S

Ver s u s

S T A T E O F U.T. CHA N D I G A R H & A N R .
(S)

R E S P O N D E N T

O R D E R

We have heard learned counsel for the parties.

Leave granted.

The High Court of Punjab & Haryana in Criminal

Miscellaneous No.9400 of 2008 passed the following

Order :-

"In the light of what has been observed above, petition filed by the petitioner succeeds and is hereby allowed. Impugned order dated 8.3.2008 is set aside. Applicant Gurnam Singh is directed that in case the consignment in question i.e. TMT iron 10 ton 1 quintal 35 kgs has been released to him, he shall surrender the same to the Station House Officer of the concerned police station till the matter is decided afresh by the trial Magistrate. Trial Magistrate is directed to dispose of the application of Gurnam Singh for the release of the articles in question after giving an opportunity of hearing to the petitioner as well.

...2/-

-2-

The parties are directed to appear before the trial Magistrate on 22.8.2008."

Thereafter on 22nd August, 2008 the Court modified the Order dated 4.8.2008. Learned counsel for

the appellant submits that according to Section 362 of

the Code of Criminal Procedure, the judgment or final

order disposing of a case could not have been altered or

reviewed by the High Court. There is complete embargo

on altering or reviewing of the order under Section 362 of

the Code of Criminal Procedure except for clerical or

arithmetical error. Section 362 of the Code of Criminal

Procedure is reproduced as under :-

"Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error."

We find substance in the submission of the learned counsel for the appellant. At this stage, learned

counsel appearing for the respondent has drawn our attention to the Order dated 8th January, 2009 passed by the Chief Judicial Magistrate, Chandigarh which reads as under :-

"Arguments heard on the application moved by applicant Jaspreet Singh. As per submissions made by the learned counsel for

...3/-

-3-

the applicant vide order dated 26.9.2008 the Apex Court has stayed the operation of the order dated 22.8.2008 of the Hon'ble Punjab & Haryana High Court, the earlier order dated 4.8.2008 of the Hon'ble High Court becomes operative. He thus, prayed that the S.H.O. concerned be directed to take back the case properly i.e. 10 tons and 135 kgs. of sari from Sidhu Tradeers, SCO No.202, Sector 29-D, Chandigarh.

I have perused the order dated 26.9.2008 of the Apex Court as well as that of dated 4.8.2008 and 22.8.2008 of the Hon'ble Punjab & Haryana High Court.

I have also gone through the reply furnished by SI Dharamvir Singh, Police Station Industrial Area, Chandigarh to the effect that in view of the order of the Apex Court notice under Section 160 Cr.P.C. has also been served upon Shri Gurnam Singh to deposit back the case properly. The learned counsel for the applicant has informed that so far Gurnam Singh has failed to deposit back the case properly to the concerned Police Station.

In view of the above discussed facts and circumstances as the Apex Court has stayed the operation of the order of the Hon'ble Punjab & Haryana High Court dated 22.8.2008 vide which Gurnam Singh was allowed to retain the case properly i.e. TMT Steel 10 tons 1 quintal & 35 kgs and as despite the receipt of the notice under Section 160 Cr.P.C. Gurnam Singh has failed to deposit back the case properly in the concerned Police Station Industrial Area, Chandigarh, the SHO is directed to seize TMT steel 10 tons 1 quintal & 35 kgs from Sidhu Tradeers, SCO No.202, Sector 29-D, Chandigarh in view of the order dated 4.8.2008 earlier passed by the Hon'ble High Court. Case is adjourned to 27.1.2009 for this purpose."

...4/-

-4-

Learned counsel for the appellant has no objection to this order because all the properties shall remain with the SHO/Investigating Officer.

In the facts and circumstances of the case, the

Order dated 22 nd Augu s t , 20 0 8 is set aside and as directed

by the Chief J u di ci al Magis t r a t e, Chan di g a r h the
proper ti e s shall conti n u e to rem ai n wi t h
SHO/In ve s t i g a t i n g Officer till the dispo s al of the
applica t i o n s filed by the par tie s befo re the Chief J u di ci al
Magis t r a t e.

This appeal is accordi n gl y, dispo sed of.

..... J.
(D A L V E E R B H A N D A R I)

..... J.
(DR. MUKU N D A K A M S H A R M A)

Ne w Delhi,
J ul y 06, 20 0 9