

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 155-156 OF 2010

RAJASHEKHAR NEELKANTH KANNAMUS .. APPELLANT

VERSUS

STATE OF KARNATAKA .. RESPONDENT

O R D E R

Heard Ms. Kiran Suri, learned senior counsel for the appellant and Mr. Raghupathy, learned counsel for the State.

The present appeal is directed against the order dated 30.06.2009 in Criminal Appeal No. 918/2004 passed by the High Court of Karnataka at Bangalore, whereby the learned Single Judge, in exercise of its revisional power, has come to hold that the learned Trial Judge had recorded a finding that there was a legal impediment to prosecute the accused for lack of valid sanction and should not have proceeded to address the case on merits. While so holding, the High Court has granted liberty to the Lokyakta Police to proceed afresh after obtaining valid sanction, if so desired.

At this juncture, it is apposite to state that the accused had preferred a Criminal Revision No. 1253/2005

which was dismissed by the High Court in view of the order passed in criminal appeal.

Ms. Kiran Suri, learned senior counsel appearing for the appellant submitted that the High Court, while setting aside the judgment of the Trial Judge could not have directed the learned Trial Judge to proceed to address itself whether there has been failure of justice. In support of her submission, she has drawn inspiration from State of Tamil Nadu V. M.M. Rajendran (1998) 9 SCC 268. Mr. Raghupathy supported the order of the High Court.

On a perusal of the order passed by the learned Trial Judge as well as that of the High Court, it is vivid that learned Trial Judge has recorded a finding that the sanction was invalid. The High Court has also accepted that there was invalid sanction.

In *M.M. Rajendran* (supra), a two-Judge Bench, while dealing with absence of sanction, has observed as follows:

"It, however, appears to us that if the sanction had not been accorded for which the criminal case could have been initiated against the respondent, there was no occasion either for the trial court or for the appeal court to consider the prosecution case on merits. Therefore, the High Court need not have made the finding on merits about the prosecution case. We make it clear that finding made by the courts on the merits of the case will stand expunged and will not be taken into consideration in future. In our view, the High Court should have passed the appropriate order by dropping the proceeding and not entering into the

question of merits after it had come to the finding that the proceeding was not maintainable for want of sanction. It is, however, made clear that it will be open to the appellant-State of Tamil Nadu to proceed afresh against the respondent after obtaining necessary sanction if the State so desires".

In our considered opinion, the High Court should have dropped the proceedings by granting liberty to the prosecution to proceed, if so advised. Therefore, we allow the appeals and set aside the whole proceeding and grant liberty to the Lokyakta police to proceed afresh against the accused after obtaining requisite sanction, if so, desired.

.....J.
(DIPAK MISRA)

.....J.
(UDAY UMESH LALIT)

NEW DELHI
SEPTEMBER 17, 2014

ITEM NO.107

COURT NO.8

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 SCriminal Appeal No(s). 155-156/2010

RAJASHEKHAR NEELKANTH KANNAMUS

Appellant(s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

(With office report)

Date : 17/09/2014 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE UDAY UMESH LALITFor Appellant(s) Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Dr. (Mrs.) Vipin Gupta (AC), Adv.For Respondent(s) Mr. V.N. Raghupathy, Adv.
Mr. Parikshit P. Angadi, Adv.UPON hearing the counsel the Court made the following
O R D E R

Appeals are allowed in terms of the signed order.

(NAVEEN KUMAR)
COURT MASTER(RENUKA SADANA)
COURT MASTER

(Signed order is placed on the file)