

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 827-830 OF 2012

BEFORE THE REGISTRAR M.A. SAYEED

SECURITIES AND EXCHANGE BOARD OF INDIA Appellant (s)

VERSUS

GAURAV VARSHNEY AND ANR. Respondent(s)

(With appln(s) for stay)

WITH APPEAL(CRL) NO. 832, 833-836 of 2012

Date: 07/02/2014 These Appeals were called on for hearing today.

For Appellant(s)

Mr R.K.Pillai, Adv.
Ms. Rekha Pandey, Adv.

For Respondent(s)

Mr Neel Kamal Mishra, Adv.
Mr. Jatin Zaveri, Adv.
Ms Sonam Anand, Adv.
Mr. Sanjeev Anand, Adv.

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

CRIMINAL APPEAL NO.827-830, 833-836 of 2012

Pursuant to the order dt.13.11.2013, the ld. counsel for the appellant, Mr R.K.Pillai was called upon to exercise his option for effecting service on respondent No.1 by resorting to the provisions contained under Chapter VI of the Cr.P.C. Communication dt.12.12.2013 at flag 'A' has been placed on record where due intimation

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has been given that publication was already done by way of substituted service in local Hindi daily, Dainik Jagran and also in English daily, Hindustan Times, Lucknow edition dated 12.2.2012. The ld. Counsel, Mr R.K.Pillai

has also invited my attention to the provision of Sub-section 2 of Section 82 of the Cr.P.C. under Chapter VI. However, in my opinion this step of substituted service by publication in criminal appeal would not be applicable as the proclamation can be issued only when a person is declared as absconder and Sub-section 2 of Section 82 has to be read with Sub-Section (1) of Section 82 of Cr.P.C. Moreover, as per the order dt.16.8.2013 passed by the Hon'ble Judge in Chambers on this very issue, resolved the controversy. Order reads thus:-

"...in a criminal matter where the accused does not appear or avoids service there is no question of serving him/her either by registered A.D. or by publication...."

Therefore, the ld. Counsel for the appellant, Mr R.K.Pillai to take recourse to the provisions of Section 64 of Cr.P.C. under Chapter VI of Cr.P.C. for effecting service on respondent no.1.

Service on respondent no.2 is complete. The ld. Counsel, Mr Neel Kamal Mishra appearing for respondent No.2, has made a submission at Bar that he does not wish to file any additional documents on record.

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Service on the sole respondent is complete and duly represented by the ld. Advocate, Ms Sonam Anand.

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The ld. Counsels for the parties have made a submission at Bar that they do not wish to file any additional document on record. Note be taken accordingly. However, further necessary orders would be passed as and when other connected matters would become ready.

List again on 10.4.2014.

| (M.A.SAYEED) |
| REGISTRAR |

hj