

ITEM NO.102

COURT NO.10

SECTION IIA

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). 1512/2008

BIRSA ORAON & ANR.

Appellant(s)

VERSUS

STATE TR.C.B.I.

Respondent(s)

WITH

W.P.(Crl.) No. 110/2007

[BIRSA ORAON & ANR. V. STATE TR. C.B.I.]

(With application for stay, permission to file additional documents and Office Report)

W.P.(Crl.) No. 55/2009

[MD. SAYEED & ORS. V. STATE OF JHARKHAND (THR. C.B.I.)]

(With Office Report)

Crl.A. No. 375/2006

[UNION OF INDIA AND ORS. V. PREETI AGGARWAL]

(With Office Report)

Date : 10/07/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Appellant(s)
In Crl.A. 1512

Mr. Sunil Kumar, Sr. Adv.
Ms. Sarla Chandra, Adv.
Ms. Rohini Prasad, Adv.

in WP 110

Mr. Sunil Kumar, Sr. Adv
Mr. Himanshu Shekhar, Adv.
Ms. Rohini Prasad, Adv.

Mr. Kaushik Poddar, Adv.

For CBI

Mr. K. Radhakrishnan, Sr. Adv.
Mr. P.K. Dey, Adv.
Mr. Chetan Chawla, Adv.

Signature Not Verified

Mr. B.V. Balaram Das, Adv.

Digitally signed by
Kalyani Gupta
Date: 2014.07.19

Mr. B. Krishna Prasad, Adv.v.

16:31:41 IST

Reason:

For Respondent(s)
For CBI

Mr. K. Radhakrishnan, Sr. Adv.
Mr. P.K. Dey, Adv.

Mr. Chetan Chawla, Adv.
Mr. B.V. Balaram Das, Adv.
Mr. B. Krishna Prasad, Adv.

Mr. Rameshwar Prasad Goyal, Adv.

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

Writ Petition (Crl) Nos. 110 of 2007 and 55 of
2009 are listed before us .

We heard Mr. Sunil Kumar, learned senior
counsel for the petitioners in Wp(Crl) No. 110 of
2007.

In these writ petitions, challenge is to the
constitutionality of the Criminal Law Amendment
Ordinance, 1944 on the ground of it being a
temporary Statute has lapsed and further Section 5
thereof is unconstitutional being violative of
petitioners' fundamental rights enshrined under
Articles 20 and 21 of the Constitution of India.

In the course of the hearing, we find that a
substantial constitutional issue that arises fo
consideration in these writ petitions are, as to
whether the ordinance and its continuance ad
infinitum of a law made by the Executive, would be
contrary to the basic feature of separation of

powers and the scheme of checks and balan
inscribed in the Polity the Constitution
adopted. When the said issue is to be examined
from very many angles and if ultimately if
answer to the contention of the petitioners were to
be countenanced the same will have very seri
ramifications pertaining to various other
laws

which were in force at the time of the commencement of our Constitution, which continue to remain in force by virtue of Article 372 of the Constitution. In view of the said larger scope to be examined in these writ petitions, we feel that the is sue in requires to be considered by a larger Bench order to find an answer to the question raised.

We, therefore, direct the Registry to place the files before Hon'ble the Chief Justice for passing appropriate orders for referring the writ petitions to a larger Bench for consideration.

the Connected Criminal Appeals can await outcome of the decision in these writ petitions.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER