

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1041 OF 2013
(arising out of S.L.P. (Criminal) No. 3150 of 2011)

PRADEEP KUMAR DIXIT

Appellant(s)

VERSUS

STATE OF U.P.

Respondent(s)

O R D E R

Leave granted.

2. It is not necessary to narrate the facts. Suffice it to say that Shiv Ram, Vijay Singh and Mohar Singh - the three accused - were tried for offence under Section 216A of the Indian Penal Code. On the basis of the evidence that had come on record in the course of trial of the above three accused, the trial court summoned the appellant under Section 319 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') for being tried with the above three accused. The fact of the matter is that on conclusion of the evidence and trial, the three accused have already been acquitted. In these circumstances, when the appellant approached the High Court for quashing the summons issued to him under Section 319 Cr.P.C., the summons deserved to be quashed. However, the High Court failed to exercise the jurisdiction vested in it and in a very slipshod manner dismissed the appellant's application under Section 482 Cr.P.C. The present appeal, by special leave, arises from that order.

3. We are satisfied that for what we have noted above, the present appellant can not be tried pursuant to the summons issued to him under Section 319 Cr.P.C.

4. Appeal is, accordingly, allowed. The impugned order is set aside. The summons issued to the appellant under Section 319 Cr.P.C. shall be treated as quashed.

.....J.
(R.M. LODHA)

NEW DELHI;
JULY 26, 2013

.....J.
(MADAN B. LOKUR)

ITEM NO.38

COURT NO.3

SECTION II

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

Petition(s) for Special Leave to Appeal (Crl) No(s).3150/2011

(From the judgement and order dated 25/11/2010 in AN No.34360/2010 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

PRADEEP KUMAR DIXIT

Petitioner(s)

VERSUS

STATE OF U.P.

Respondent(s)

(With appln(s) for exemption from filing O.T. and stay and office report)

Date: 26/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s)

Mr. P.K. Jain, Adv.

Mr. Saurabh Jain, Adv.

Mr. P.K. Goswami, Adv.

Mr. S.P. Singh, Adv.

For Respondent(s)

Mr. Adarsh Upadhyay, Adv.

Mr. Siddharth Sengar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

Appeal is allowed, the impugned order is set aside and the summons issued to the appellant under Section 319 Cr.P.C. shall be treated as quashed in terms of the signed order.

|(Rajesh Dham)
|Court Master

|(Renu Diwan)
|Court Master

|

(signed order is placed on the file)