

ITEM NO.1501

COURT NO.2

SECTION II-C

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

Petition for Special Leave to Appeal (Cr1.) No.2872/2022

(Arising out of impugned final judgment and order dated 17-12-2021 in CRLRP No.39/2021 passed by the High Court of Karnataka At Bengaluru)

NOOR MOHAMMED

Petitioner(s)

VERSUS

KHURRAM PASHA

Respondent(s)

Date : 02-08-2022 This matter was called on for pronouncement of Judgment today.

For Petitioner(s) Mr. Shailesh Madiyal, Adv.
Ms. Rakhi M., Adv.
Mr. Mrigank Prabhakar, AOR
Ms. Sakshi Banga, Adv.
Mr. Vinayaka Pandit, Adv.
Mr. Rajan Parmar, Adv.
Mr. Vaibhav Sabharwal, Adv.
Mr. Sudhanshu Prakash, Adv.

For Respondent(s) Mr. Anand Sanjay M. Nuli, Adv.
Mr. Dharm Singh, Adv.
Mr. Agam Sharma, Adv.
Mr. Suraj Kaushik, Adv.
Ms. Akhila Wali, Adv.
Ms. Nandini Pandey, Adv.
M/s. Nuli & Nuli, AOR

Hon'ble Mr. Justice Uday Umesh Lalit pronounced the reportable judgment of the Bench comprising His Lordship, Hon'ble Mr. Justice S. Ravindra Bhat and Hon'ble Mr. Justice Sudhanshu Dhulia.

The operative portion of the judgment reads as under:

“1. Leave granted.

14. The concerned provision nowhere contemplates that an accused who had failed to deposit interim compensation could be fastened with any other disability including denial of right to cross-examine the witnesses examined on behalf of the complainant. Any such order foreclosing the right would not be within the powers conferred upon the court and would, as a matter of fact, go well beyond the permissible exercise of power.

15. Since the right to cross-examine the respondent was denied to the Appellant, the decisions rendered by the courts below suffer from an inherent infirmity and illegality. Therefore, we have no hesitation in allowing this appeal and setting aside the decisions of all three courts with further direction that Complaint Case No. 244 of 2019 shall stand restored to the file of the Trial Court. The Trial Court is directed to permit the Appellant to cross-examine the Respondent and then take the proceedings to a logical conclusion. With these observations the appeal is allowed.

16. It is also directed that 20% of the cheque amount namely Rs.1,40,000/- must be deposited by the Appellant as interim compensation. The Registry is directed to make over a sum of Rs.1,40,000/- to the Trial Court i.e. Senior Civil Judge & JMFC, Nagamangala, Karnataka. The amount shall be kept in deposit in Complaint Case No. 244 of 2019 and shall abide by such orders as the Trial Court may deem appropriate to pass. Rest of the amount along with accrued interest, if any, shall be made over to the Appellant. The Registry shall take out a Pay Order in the name of the Appellant which shall be handed over to the learned counsel for the Appellant.

17. In the end, it must be clarified that we have not and shall not be taken to have reflected on the merits of the matter which shall be gone into after affording right to cross-examine as stated above.”

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
AR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER

(Reportable Judgment is placed on the File)