

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.4500 OF 2024
(@ SPECIAL LEAVE PETITION (CRL.) NO.10063/2023)

KRISHNA CHANDRA

APPELLANT

VERSUS

STATE OF UTTAR PRADESH & ANR.

RESPONDENTS

O R D E R

1. Leave granted.
2. This appeal by special leave is directed against the order dated 26.05.2023 passed by the High Court of Judicature at Allahabad in Application under Section 482 No.16490 of 2019. The appellant filed the said application under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.')
3. Learned counsel for the appellant would submit that in the light of the exposition of law by this Court in *Joseph Shine versus Union of India* reported in (2019 (3) SCC 39), there is absolutely no question of convicting the appellant for the offence under Section 497 of the Indian Penal Code

(for short 'the IPC'), as the said provision was declared as unconstitutional by this Court. The position that the said section was declared as unconstitutional is indisputable. When this being the indisputable position, the question is whether the proceedings in Complaint Case No.1493/2017 against the appellant be permitted to continue.

4. In the decision of this Court in *State of Haryana and Ors. vs. Bhajan Lal and Ors.* reported in (1992 Supp (1) SCC 335), this Court held where the allegations made in the First Information Report or in the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused, it is a case wherein the inherent power under Section 482 of the Cr.P.C. should be exercised. There is no dispute with respect to the position that the accusation against the appellant/accused No.5 in Complaint Case No.1493/2017 is only commission of offence under Section 497, IPC.

5. Having heard learned counsel on both sides and in view of the fact that the appellant is charged only for the offence under Section 497 IPC and in the light of the decision of this Court in Joseph Shine's case (*supra*), we have no hesitation to hold that it is absolutely unnecessary to permit continuance of the proceedings in Complaint Case No.1493 of 2017 *qua* the appellant. In that view of the matter, the impugned order dated 26.05.2023 passed by the

High Court invites interference.

6. Consequently, for the reasons given above, this appeal is allowed. The order dated 26.05.2023 passed by the High Court of Judicature at Allahabad in Application under Section 482 No.16490 of 2019 stands quashed and set aside.

7. The entire proceedings initiated against the appellant in Complaint Case No.1493 of 2017 pending on the file of Chief Judicial Magistrate, Budaun in Uttar Pradesh, the summoning order dated 29.01.2018 as well as the non-bailable warrant dated 05.10.2018 issued against the appellant stand quashed and set aside.

.....J.
(C.T. RAVIKUMAR)

.....J.
(SANJAY KAROL)

NEW DELHI
08th NOVEMBER, 2024

ITEM NO.44

COURT NO.11

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. 10063/2023
(Arising out of impugned final judgment and order dated 26-05-2023
in A482 No. 16490/2019 passed by the High Court of Judicature at
Allahabad)

KRISHNA CHANDRA

PETITIONER(S)

VERSUS

STATE OF UTTAR PRADESH & ANR.

RESPONDENT(S)

Date : 08-11-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. Bipin Bihari Singh, Adv.
Mr. Rajesh Kumar, Adv.
Mr. Ashok Anand, AOR

For Respondent(s) Ms. Sakshi Kakkar, AOR
Mrs. Shweta Yadav, Adv.

Mr. Pradeep Kumar Yadav, Adv.
Mr. Vishal Thakre, Adv.
Mr. Gopal Singh, Adv.
Ms. Anjale Kumari, Adv.
Ms. Chhaya, Adv.
Mr. Aditya Yadav, Adv.
Mr. Gaurav Yadav, Adv.
Mr. Sanjeev Malhotra, AOR

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

1. Leave granted.
 2. The appeal is allowed in terms of the signed order.
- Pending application(s), if any, shall stand disposed of.

(GEETA AHUJA)
ASTT. REGISTRAR-cum-PS

(Signed Order is placed on the file)

(MATHEW ABRAHAM)
COURT MASTER (NSH)