



IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024

(Arising out of Special Leave Petition (Criminal) No.2029 of 2023)

P.N.D. PRASAD

... APPELLANT

VERSUS

BILLA SATISH & OTHERS

... RESPONDENTS

ORDER

Leave granted.

2. The appellant herein is aggrieved by what has been observed by the High Court for the State of Telangana in its order in paragraphs 14 and 15 dated 09.06.2022 passed in Criminal Petition No.5937 of 2016. As a consequence of the said observations, the docket order dated 21.07.2014 passed by the Court of XIX Metropolitan Magistrate, Cyberabad, Miyanpur, Kukatpally, in CrI.M.P. No.2383 of 2013 in Crime No.408 of 2013 filed by the appellant herein has been set aside.

3. We have heard learned counsel for the appellant and learned senior counsel for respondent nos.1 to 5 and learned counsel for respondent no.6-State and perused the material on record. Learned counsel for the appellant submitted that on the filing of a report by the concerned Sub-Inspector of Police, P.S. K.P.H.B. Cyberabad, the appellant herein filed a protest petition on 19.09.2013. By then, the Sworn Statement dated 01.08.2013 and 10.01.2013 had been recorded and the expert opinion had also been recorded. Taking note of the same, the learned Metropolitan Magistrate, Cyberabad by the impugned docket order accepted the protest petition filed by the complainant/appellant herein and consequently observed as under:-

“On perusal of the record found that the police filed second report stating that as false case. After receiving the notice the Defacto Complainant appeared before the court and filed the present case requesting the court to direct to proceed with the further investigation as a statement of Phanikumar disclosed there is no evidence if it is so Phanikumar is also guilty for fabricating the document and deceiving the authorities. The Sworn Statement of the Complainant disclosed that Phanikumar handed over some documents with forged signatures and the accused by using fake rubber stamps created documents and the exports by examining is admitted signatures with the signatures

on the fabricated documents opined that the signatures on the said documents were forged and fabricated. Therefore by considering the Sworn Statement of the Complainant and the Statement of Phanikumar dated 1-8-2013 8-1-2013 the Investigating Agency is directed to reconsider the case and to ascertain the true facts basing on the sworn statement of the Defacto Complainant and by verifying the Expert Opinion and to submit report as early as possible”

(underlining by us)

4. Being aggrieved by the said order, the private respondents herein preferred Criminal Petition No.5937 of 2016 under Section 482 of the Cr.P.C. before the High Court seeking a two-fold relief. Firstly, the private respondents sought for quashing of the very complaint filed by the appellant herein which prayer the High Court did not accept as it opined that there was a *prima facie* case and the allegations leveled against the private respondents herein had to be considered by the Trial Court. As far as the second aspect of the matter is concerned, the High Court found that the proceedings before the Trial Court were liable to be set-aside as the Trial Court could not have directed for a reinvestigation of the matter; that no such powers are envisaged for the Trial Court to order for reinvestigation in the matter. In the circumstances, paragraphs “14” and “15” of the

order of the High Court, as assailed by the appellant herein are reproduced hereunder:-

“14. In the case on hand, a direction was given to the police by the Court to reinvestigate the matter. In view of the law laid down by the Hon’ble Supreme Court, the said direction is without any jurisdiction. Therefore, the proceedings before the Trial Court are liable to be set aside. Once the proceedings are liable to be set aside, the only material available before the trial Court is the final report filed by the police stating that there is no material to proceed against the case, wherein the Police have already filed the final report.

15. In the result, the criminal petition is allowed, quashing the order dated 21.07.2014 passed by the learned XIX Metropolitan Magistrate, Cyberabad, Kukatpally in CrI.M.P.No.2383 of 2013 in FIR No.408 of 2013.”

5. The controversy in this case would turn on the directions issued by the learned Metropolitan Magistrate, in view of the fact that the expression used in the docket order dated 21.07.2014 is “the investigating agency is directed to reconsider the case and to ascertain the true facts”.

6. Learned senior counsel appearing for the private respondents submitted that the High Court rightly found that the direction to reconsider the case could not have been issued by the learned Metropolitan Magistrate inasmuch as no such

power is envisaged in law, therefore, the High Court was justified in setting aside the docket order dated 21.07.2014.

7. In response to this submission, learned counsel for the appellant submitted that the aforesaid expression must be construed in accordance with what is envisaged in law. It cannot be to mean that there has to be a reinvestigation of the case as that was not the import of the aforesaid expression of the Trial Court; and that the learned Metropolitan Magistrate only directed continuing of the investigation having regard to the fact that he was considering the protest petition. The merit of the observations of the learned Metropolitan Magistrate has to be construed in light of what has been observed in the said order itself and in accordance with law.

8. It was therefore submitted by learned counsel for the appellant as well as learned counsel for the respondent-State that it was not necessary for the High Court to have set aside the docket order dated 21.07.2014, thereby allowing the criminal petition filed by the private respondents herein. This is particularly so when the High Court had also found that there was a *prima facie* case against the private respondents

herein and the allegations leveled against them could not have been simply brushed aside or quashed.

9. Considering the submissions advanced at the bar we find that the choice of expression by the learned Metropolitan Magistrate may not have been appropriate. However, the meaning of the said expression could be discerned as a direction for a continuation of the investigation, having regard to the material on record. In the circumstances, we find that the High Court ought to have construed the true import of what the learned Metropolitan Magistrate had observed in the docket order dated 21.07.2014. If the same is perceived in the aforesaid context then the observations made in paragraphs “14” and “15” of the High Court order would be improper and hence, to that extent the appeal filed by the appellant herein has to be allowed and is allowed. The observations at paragraph “14” and “15” are set aside.

10. Consequently, the direction issued by the learned Metropolitan Magistrate in the docket order dated 21.07.2014 ought to be construed in accordance with the true legal import. Hence, the learned Metropolitan Magistrate is now directed to

indicate the consequence of the said order and to conclude the proceedings in accordance with law by following the procedure envisaged in law on the protest petition, filed by the appellant herein.

11. In this regard, reliance could be placed on the observations of this Court made in the case of ***Vishnu Kumar Tiwari vs. State of Uttar Pradesh through Secretary Home, Civil Secretariat, Lucknow and Another (2019 8 SCC 27)*** at paragraphs 14-27, as pointed out by learned counsel for the respondent-State and learned Senior Counsel for the respondents.

This appeal is allowed in the aforesaid terms.

.....**J.**
(B.V. NAGARATHNA)

.....**J.**
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
DECEMBER 05, 2024