

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2023
(arising out of SLP(CrL.) No. 6059/2023)

SUNIL KUMAR

APPELLANT

VERSUS

LALA SAURABH VERMA & ANR.

RESPONDENT

O R D E R

Leave granted.

Having heard the learned counsel for the parties, we are of the opinion that the impugned judgment and order dated 05/07.02.2023 allowing Writ Petition (Criminal) no. 122/2020 filed by respondent no. 1 - Lala Saurabh Verma, is contrary to law and cannot be sustained.

The First Information Report (FIR) in question, that is, FIR No. 08/2018 was registered against respondent no.1 - Lala Saurabh Verma, on 06.06.2018 at Police Station - Sector IV, Sub-Division - Chas, District - Bokaro, Jharkhand for the offence(s) punishable under Sections 406, 420, 504, 506 read with Section 34 of the Indian Penal Code, 1860, Section 25(1A) of the Arms Act, 1959 and Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989¹. At the time of registration of the FIR, notification no. 7/S.C.S.T.-06/2007-5165 dated

1 For short, "SC/ST Act"

24.11.2012 issued by the Department of Home, Government of Jharkhand, was in force and officers of the level of Inspector and Sub-Inspector were authorized to conduct the investigation under the SC/ST Act.

By a subsequent notification bearing no. 11/Court Case-16/2018-3812 dated 10.07.2018, the notification dated 24.11.2012 was withdrawn. Henceforth, the officers of the level of Deputy Superintendent of Police (Dy. S.P.) were/are authorized to conduct investigation under the SC/ST Act.

This Court in *State of Bihar & Ors. vs. Anil Kumar & Ors.*², has examined the interplay between the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995³ and the notification issued by the State Government and held that Section 9(1)(b) of the SC/ST Act confers on the State Government the power to further delegate the power to arrest, investigation and prosecution. This power vested with the State Government, through a *non obstante* clause, cannot be neutralised by any rule framed under Section 23 of the SC/ST Act. The *non obstante* clause would allow a State Government to exercise the power conferred on it irrespective of the provisions of the SC/ST Act, and irrespective of the provisions of the SC/ST Rules.

It is also pointed out that post the issue of the notification dated 10.07.2018, the investigation was carried out by the Dy. S.P. and the charge sheet was filed by him.

In view of the aforesaid, the appeal is allowed and the

2 (2017) 14 SCC 304.

3 For short, "SC/ST Rules".

impugned judgment and order dated 05/07.02.2023, quashing the proceedings for lack of competence of the authorized officer carrying out the investigation, is set aside. The prosecution/proceedings will continue in accordance with law.

We clarify that we have not made any observations/comments or given any findings on the merits of the case.

To cut short delay, parties are directed to appear before the trial Court on 08.11.2023, when a date of hearing will be fixed.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
OCTOBER 03, 2023.

ITEM NO.44

COURT NO.3

SECTION II-A

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 (Crl.) No. 6059/2023

(Arising out of impugned final judgment and order dated 07-02-2023 in WPCR No. 122/2020 passed by the High Court of Jharkhand at Ranchi)

SUNIL KUMAR

Petitioner(s)

VERSUS

LALA SAURABH VERMA & ANR.

Respondent(s)

(IA No. 96690/2023 - EXEMPTION FROM FILING O.T.)

Date : 03-10-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Prateek Yadav, Adv.
Mr. Ranbir Singh Yadav, AOR
Mr. P.M. Saini, Adv.
Mr. Pati Raj Yadav, Adv.

For Respondent(s) Mr. Abhinav Kumar Srivastava, Adv.
Mr. Nishant Verma, AOR
Mr. Ujjwal Kumar, Adv.

Mr. Vishnu Sharma, Adv.
Ms. Madhusmita Bora, AOR
Mr. Pawan Kishore Singh, Adv.
Mr. Dipankar Singh, Adv.
Mr. Farid Siddique, Adv.
Mrs. Anupama Sharma, Adv.
Mr. Amar Jyoti Sharma, Adv.
Ms. Vedika Dalmia, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(signed order is placed on the file)