

ITEM NO.16

COURT NO.1

SECTION XVI

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(s) for Special Leave to Appeal (C) No(s).11588-11589/2023

(Arising out of impugned final judgment and order dated 18-05-2023 in CAN No. 5/2023 18-05-2023 in CAN No. 6/2023 passed by the High Court At Calcutta)

ABHISHEK BANERJEE

Petitioner(s)

VERSUS

SOUMEN NANDY & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.109399/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.109391/2023-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 110537/2023 - INTERVENTION/IMPLEADMENT)

Date : 10-07-2023 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Siddharth Aggarwal, Sr. Adv.
Mr. Amit Bhandari, Adv.
Ms. Arshiya Ghose, Adv.
Mr. Vishwajeet Singh Bhatti, Adv.
Ms. Sowjhanya Shankaran, Adv.
Ms. Shreya Bhojnagarwala, Adv.
Mr. Udayaditya Banerjee, AOR

For Respondent(s) Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Rauf Rahim, AOR
Mr. Firdous Samim, Adv.
Mr. Ali Asghar Rahim, Adv.
Ms. Gopa Biswas, Adv.
Ms. Mousami Hazra, Adv.
Ms. Payel Shome, Adv.

Mr. Tushar Mehta, Solicitor General
Mr. S.V. Raju, A.S.G.
Mr. Mukesh Kumar Maroria, AOR

Mr. Annam Venkatesh, Adv.
Mr. Kanu Agarwal, Adv.
Mr. Zoheb Hussain, Adv.

Mr. Nirnimesh Dube, AOR
Ms. Bansuri Swaraj, Adv.
Mr. Siddhesh Kotwal, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Mr. Nihar Dharmadhikari, Adv.

Mr. Huzefa Ahmadi, Sr. Adv.
Mr. Srisatya Mohanty, Adv.
Ms. Anju Thomas, Adv.
Ms. Rashmi Singh, Adv.
Mr. Sanjeev Kaushik, Adv.
Ms. Mantika Haryani, Adv.
Mr. Shreyas Awasthi, Adv.
Mr. Himanshu Chakravarty, Adv.
Ms. Ripul Swati Kumari, Adv.
Ms. Muskan Surana, Adv.
Mr. Bhanu Mishra, Adv.
Ms. Astha Sharma, AOR

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

- 1 While entertaining a Public Interest Litigation, on 13 April, 2023, a Single Judge of the High Court at Calcutta issued certain directions, *inter alia*, to the Central Bureau of Investigation and the Enforcement Directorate to conduct an investigation.
- 2 A Special Leave Petition was instituted before this Court in order to challenge the order of 13 April 2023. This Court passed an initial order dated 24 April, 2023 while entertaining the petition. The Petition was disposed of on 28 April 2023.

- 3 In its order dated 28 April 2023, this Court directed the Acting Chief Justice of the High Court at Calcutta to reassign the pending proceedings in the case to a Judge of the High Court other than the Judge who had passed the order which was under challenge. This Court clarified that the Judge to whom the proceedings are reassigned by the Acting Chief Justice would be at liberty to take up all applications which may be moved in that regard.
- 4 The Single Judge of the Calcutta High Court to whom the proceedings were reassigned by the Chief Justice, heard applications for recall of the directions which were issued on 13 April 2023. The Single Judge held that the offence which the Enforcement Directorate is dealing with is under the Prevention of Money Laundering Act 2002, while the predicate offences under the Prevention of Corruption Act 1988 and the Indian Penal Code 1860 are being investigated by CBI. The Single Judge declined to stay the investigation.
- 5 The Single Judge has observed in the concluding part of the order that since the direction for investigation made on 13 April 2023 was not interfered with by this Court, the order stood affirmed and “becomes a closed chapter”.
- 6 Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the petitioner submitted that in its order of 28 April 2023, this Court observed that any application in the matter would be considered by the Single Judge to whom the proceedings would be reassigned by the Chief Justice and hence the Single Judge erred in concluding that such an application for recall of the directions which were issued on 13 April 2023 was barred by the order of this Court. If the

order of the Single Judge is read in its entirety, it would emerge that in the earlier part of the impugned order, the Single Judge had clearly held that there was no reason to prevent an investigation being carried out by the Enforcement Directorate having regard to the ramifications of the matter.

- 7 Mr S V Raju, Additional Solicitor General submits that quite independent of the order which was passed by the Single Judge in the Public Interest Litigation, the Enforcement Directorate has an independent right to conduct an investigation into the Teachers' Recruitment Scam.
- 8 Reading the order of the Single Judge in its entirety, it is evident that the Single Judge has duly applied her mind to the question whether the investigation should be stayed. The Single Judge was of the view that such a direction could not be issued at the present stage to stultify the investigation.
- 9 We are inclined not to interfere with the impugned order since the consequence of doing so would be to stifle the investigation at the incipient stage. However, the petitioner is at liberty to pursue all remedies which are available in law, including under Section 482 of the Code of Criminal Procedure 1973. In the event that the petitioner takes recourse to such remedies as are available in law, the observations which are contained in the order dated 13 April 2023 or in the impugned order dated 28 May 2023 shall not stand in the way of the competent court dealing with such an application on its own merits.
- 10 Since this Court had permitted the filing of applications before the Single Judge while disposing of the proceedings on 28 April 2023, the direction for the

payment of costs would stand deleted.

11 The Special Leave Petition is accordingly disposed of.

12 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR