

ITEM NO.29

COURT NO.7

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(s) for Special Leave to Appeal(Crl.)No(s). 8327/2022

(Arising out of impugned final judgment and order dated 02-08-2022 in CRLP No. 10145/2021 passed by the High Court Of Karnataka At Bengaluru)

LATHA RAJANIKANTH

Petitioner(s)

VERSUS

STATE OF KARNATAKA & ANR.

Respondent(s)

(IA No. 131011/2022 - EXEMPTION FROM FILING O.T.)

WITH

SLP(Crl) No. 9818/2022 (II-C)

IA No. 157139/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT AND IA No. 157140/2022 - EXEMPTION FROM FILING O.T.)

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

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Aman Jha, Adv.
Ms. Babita Yadav, Adv.
Ms. Shubha Yadav, Adv.
Mr. Gaurav Prakash Shah, Adv.
Mr. Rishi Tutu, Adv.
Mr. R. C. Kohli, AOR

Mr. M.Sathyannarayana, Sr. Adv.
Mr. Elambharathi, Adv.
Mr. M. Yogesh Kanna, AOR
Mr. Vasu Kalra, Adv.
Ms. Monica Saini, Adv.

For Respondent(s) Mr. M.sathyannarayana, Sr. Adv.
Mr. Elambharathi, Adv.
Mr. M. Yogesh Kanna, AOR
Mr. Vasu Kalra, Adv.

Ms. Monica Saini, Adv.

Mr. Muhammad Ali Khan, A.A.G.

Mr. D. L. Chidananda, AOR

Mr. Aman Jha, Adv.

Ms. Babita Yadav, Adv.

Ms. Shubha Yadav, Adv.

Mr. Gaurav Prakash Shah, Adv.

Mr. Rishi Tutu, Adv.

Mr. R. C. Kohli, AOR

Mr. Pratham Sagar, Adv.

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

Heard the learned counsel for the parties and perused the petition papers.

The impugned order dated 02.08.2022 passed by the High Court of Karnataka at Bengaluru, has been challenged by both the contesting parties. After hearing both the sides, we are of the opinion that in view of the earlier order passed by this Court on 10th July, 2018 in Criminal Appeal No. 854 of 2018, the only way open to the petitioners in SLP(Crl.) No. 8327 of 2022 is either to file an application seeking discharge or to face the trial.

For the sake of convenience, the aforesaid order dated 10th July, 2018, passed by this Court, is extracted herein;

"1. We have heard the learned counsels for the parties.

2. Leave granted.

3. A perusal of the Complaint Petition, particularly paragraph 12 thereof, would go to show that the complainant did have a triable issue. The version put

forward on behalf of the accused-respondent before us really touches upon the merits of the case. We are, therefore, of the view that the High Court was not justified in quashing the impugned proceedings and, rather, should have allowed the trial to progress. Beyond the above we do not consider it necessary to record anything further as the same may prejudice either of the parties.

4. Consequently and in the light of the above we allow this appeal; set aside the order of the High Court. We make it clear that we have expressed no opinion on merits, save and except that the averments in the complaint constitute a prima facie case for commencement of the trial.

5. The appeal is disposed of in the above terms."

Accordingly, the SLP(Crl) No. 9818/2022 and SLP(Crl.) No. 8327/2022 are disposed of by restoring the final report filed. However, liberty is granted to the petitioner(s) in SLP(Crl.) No.8327/2022 to file an appropriate application, if so advised, seeking discharge. We make it clear that if such application is filed on behalf of the petitioner(s), the findings rendered under the impugned order will not stand in the way, and the Trial Court is directed

to consider the same on its merits and in accordance with law.

Taking into consideration the further submissions made, the physical presence of the petitioner-accused(A-1) in SLP(Crl.) No. 8327/2022 shall stand dispensed with until and unless the same is required by the Trial Court.

We further make it clear that we have not expressed any opinions on the merits of the case and it is well open to the parties to resolve the issue, also through mediation.

The petitions are disposed of in aforesaid terms along with the pending application(s), if any.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
ASSISTANT REGISTRAR