

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2024  
(Arising from SLP(Cr1.)No(s).7273/2019)

MAMTA SHAILESH CHANDRA

APPELLANT(S)

VERSUS

STATE OF UTTARAKHAND & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

The appellant had filed a criminal writ petition before the High Court of Uttarakhand at Nainital for quashing an F.I.R. registered alleging commission of offences punishable under Sections 420 & 409 of the Indian Penal Code 1860. The proceeding arose on account of certain financial irregularities detected in a Cooperative Bank of which the appellant was posted as a Branch Manager. The ground on which the High Court has dismissed the quashing plea is that chargesheet had been submitted subsequent to filing of the quashing petition. On that basis, the High Court came to the conclusion that the criminal writ petition had become infructuous.

We do not agree with the reasoning of the High Court for dismissing the writ petition of the appellant, having regard to the ratio of the judgment of this Court delivered on 04.07.2011 in the case of *Joseph Salvaraj A. vs. State of Gujarat & Ors.* reported in 2011 (7) SCC 59. That was a case arising from the quashing plea of an F.I.R., where chargesheet was submitted

after institution of the petition under Section 482 of the Code of Criminal Procedure 1973. A Coordinate Bench of this Court opined that even if the charge sheet had been filed, the Court could still examine if offences alleged to have been committed were prima facie made out or not on the basis of the F.I.R., chargesheet and other documents.

We, accordingly, set aside the impugned order and remand the matter to the High Court. Let the High Court hear the criminal writ petition on merit. We also direct, on the basis of materials disclosed, that the appellant shall not be arrested for the offences alleged in the said F.I.R. until the High Court decides the criminal writ petition on merit, unless a case is made out before the High Court that the appellant's detention is necessary on account of any development subsequent to filing of the chargesheet. We issue this direction in exercise of our jurisdiction under Article 142 of the Constitution of India.

The present appeal stands allowed in the above terms.

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

.....J.  
[ANIRUDDHA BOSE]

.....J.  
[SANJAY KUMAR]

ITEM NO.43

COURT NO.5

SECTION II-B

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 (CrI.) No(s). 7273/2019

(Arising out of impugned final judgment and order dated 24-07-2019 in WPCRL No. 1330/2018 passed by the High Court Of Uttarakhand At Nainital)

MAMTA SHAILESH CHANDRA

PETITIONER(S)

VERSUS

STATE OF UTTARAKHAND &amp; ORS.

RESPONDENT(S)

( IA No. 122202/2019 - EXEMPTION FROM FILING O.T.)

Date : 29-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE

HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s) Mr. J.C.Gupta, Sr. Adv.  
Mr. Anurag Tomar, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s) Mr. Jaswant Singh Rawat, AOR  
Mr. Vikas Negi, Adv.  
Mr. Kailash Chander Sharma, Adv.  
Mrs. Kamlesh Pant, Adv.  
Ms. Ikshita Parihar, 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, which is placed on the file.

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

(NIRMALA NEGI)  
COURT MASTER (SH)

(VIDYA NEGI)  
ASSISTANT REGISTRAR