

ITEM NO.35

COURT NO.9

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 (Crl.) No(s). 12819/2023

(Arising out of impugned final judgment and order dated 03-10-2023 in CRMA No. 1/2023 passed by the High Court Of Kerala At Ernakulam)

MOHAMMED FAIZAL

Petitioner(s)

VERSUS

U. T. ADMINISTRATION OF LAKSHADWEEP &amp; ORS.

Respondent(s)

(IA No.205314/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.205315/2023-EXEMPTION FROM FILING O.T. )

Date : 09-10-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY

HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. Kapil Sibal, Sr. Adv.  
Mr. K. R. Sasiprabhu, AOR

For Respondent(s) Dr. Menaka Guruswamy, Sr. Adv.  
Mr. Fuzail Ahmad Ayyubi, AOR  
Mr. Ibad Mushtaq, Adv.  
Ms. Akanksha Rai, Adv.  
Mr. Lavkesh Bhambhani, Adv.  
Mr. Utkarsh Pratap, Adv.  
Mr. Harshwardhan Thakur, Adv.  
Mr. Syed Mohd Ashhar, Adv.

Mr. K.M. Nataraj, A.S.G.  
Mr. Akshay Amritanshu, AOR  
Mr. Anuj Udupa, Adv.  
Mr. Ashutosh Jain, Adv.  
Mr. Samyak Jain, Adv.

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

Heard Mr. Kapil Sibal, learned Senior Counsel for the petitioner.

2. Adverting to the incident, the senior counsel would firstly submit that the assailants and the injured belong to the rival political parties and there was a prior incident of attack on the petitioner's group which led to the conviction of the assailants from the other side. It is next submitted that in the FIR, no weapon was mentioned in the hand of the petitioner but by subsequent improvement, an iron rod was introduced as the weapon of assault in the hand of the petitioner. At the time of the incident i.e., 16.04.2009, the petitioner was a political worker but since then he has been elected as a Member of Parliament in the year 2014 and thereafter re-elected in 2019 and his current term in the Parliament will expire in May 2024. Therefore, the senior counsel would submit that the Lakshadweep Constituency which the petitioner represents, should not be allowed to go unrepresented in view of the provisions of Section 151A of the *Representation of the People Act, 1951* as by-election may not be notified for the short tenure vacancy for the constituency. Mr. Sibal argues that this is one of the reasons why the suspension of conviction of the petitioner should have been favourably considered by the High Court.

3. Mr. K. M. Natraj, learned ASG on the other hand, opposing the interim order, submits that action has been taken against the petitioner immediately after the impugned order dated 03.10.2023. The ASG would further submit that it was only an interim protection granted in this Court's remand order dated 22.08.2023 and such an order was passed in order to avoid a vacuum situation, until the High Court reconsiders the matter upon remand.

4. Dr. Menaka Guruswamy, learned Senior Counsel in her turn also

opposes the interim order in favour of the petitioner by saying that victim was seriously injured and only because he received emergency medical treatment, his life could be saved.

5. As can be noted, the petitioner had the benefit of an order of suspension of conviction by the High Court on 25.01.2023 but this Court on 22.08.2023 set aside the order and remanded the matter back to the High Court. In the meantime, to avoid a situation where there would be vacuum created, the petitioner was protected in the remand order, until the High Court re-considers the matter. Moreover, the main criminal appeal challenging the order of conviction of the Sessions Judge, is pending in the High Court.

6. Issue notice, returnable in four weeks. Mr. Akshay Amritanshu and Mr. Fuzail Ahmad Ayyubi, learned Advocate-on-records accept notice on behalf of the respondent No.1 and 2 respectively.

7. In the meantime, the operation of the impugned order dated 03.10.2023 in Criminal Miscellaneous Application No. 1/2023 arising out of Criminal Appeal No.49/2023 of the High Court is stayed. In other words, this Court's earlier interim order dated 22.8.2023 will operate and there shall be suspension of petitioner's conviction.

[DEEPAK JOSHI]  
COURT MASTER

[KAMLESH RAWAT]  
ASSISTANT REGISTRAR