

COURT ON ITS OWN MOTION VS STATE OF PUNJAB AND OTHERS

Present:- Mr. Rupinder S. Khosla, Sr. Advocate with
Mr. Sarvesh Malik, Advocate as Amicus Curiae.

Mr. S.P.S. Tinna, Addl. AG, Punjab.
Mr. Ankur Mittal, Addl. AG, Haryana.

Mr. Sumeet Goel, Sr. Advocate with
Mrs. Shubhra Singh and Mr. A.K.Ranolia, Advocates,
for CBI.

Mr. Pankaj Jain, Sr. Standing Counsel with
Mr. Jaivir Chandail, Advocate for UT, Chandigarh.
Mr. J.S. Toor, Advocate for UT Chandigarh.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Dheeraj Jain, Senior Counsel for respondent No.3.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

Reply has been filed by CBI. Same is taken on record. Mr.
Khosla learned Amicus Curiae has referred to relevant part of order dated
10.9.2020 which reads as follows : -

“(iii) Cases under stay:—

a. This Hon'ble Court in Asian Resurfacing of Road Agency
Pvt. Ltd. v. CBI, (2018) 16 SCC 299, held as under:—

“If stay is granted, it should not normally be unconditional or of
indefinite duration. Appropriate conditions may be imposed so
that the party in whose favour stay is granted is accountable if
court finally finds no merit in the matter and the other side
suffers loss and injustice. To give effect to the legislative policy
and the mandate of Article 21 for speedy justice in criminal
cases, if stay is granted, matter should be taken on day-to-day
basis and concluded within two-three months. Where the matter
remains pending for longer period, the order of stay will stand
vacated on expiry of six months, unless extension is granted by
a speaking order showing extraordinary situation where
continuing stay was to be preferred to the final disposal of trial

by the trial Court. This timeline is being fixed in view of the fact that such trials are expected to be concluded normally in one to two years.”

In view of the law laid down in the aforesaid case, trial courts to proceed with the trial notwithstanding any stay granted by the High Court unless fresh order is passed extending the stay by recording reasons.

b. In the alternative, Registrar Generals may be directed to place the matters involving MPs and MLAs before Hon'ble the Chief Justice for appropriate orders for urgent listing of such cases.”

Mr. Goel learned Special Public Prosecutor for CBI has drawn attention of this Court to the subsequent order dated 16.9.2020 passed by Hon'ble Supreme Court. Same reads as under : -

“20. We further request the learned Chief Justices of all the High Courts to list forthwith all pending criminal cases involving sitting/former legislators (MPs and MLAs) particularly those wherein a stay has been granted, before an appropriate bench(es) comprising of the learned Chief Justice and/or their designates. Upon being listed, the Court must first decide whether the stay granted, if any, should continue, keeping in view the principles regarding the grant of stay enshrined in the judgment of this Court in *Asiant Resurfacing of Road Agency Private Limited v. CBI* (2018) 16 SCC 299. In the event that a stay is considered necessary, the Court should hear the matter on a day-to-day basis and dispose of the same expeditiously, preferably within a period of two months, without any unnecessary adjournment. It goes without saying that the Covid-19 condition should not be an impediment to the compliance of this direction, as these matters could be conveniently heard through video conferencing.”

Registrar (General) to examine order dated 27.5.2021 and the order passed today by this Court and report whether all the concerned are abiding by the directions given by Hon'ble Supreme Court in letter and

spirit.

Mr. Jain learned Additional Solicitor General of India has pointed out that he has received information from CBDT about pendency of one case against political person pending before CJM, Ludhiana at the pre-summoning evidence. He submits that he shall furnish details thereof by way of an affidavit within 3 days from today.

To come up on 27.7.2021.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

July 19, 2021
Paritosh Kumar



सत्यमेव जयते

