

ITEM NO.8+10

COURT NO.2
(HEARING THROUGH VIDEO CONFERENCING)

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

SPECIAL LEAVE PETITION (CRIMINAL) Diary No.18070/2021

(Arising out of impugned final judgment and order dated 01-03-2021 in WP No.6591/2021, 12-03-2021 in WP No.6591/2021, 16-03-2021 in WP No.6591/2021, 23-03-2021 in WP No.6591/2021, 30-04-2021 in WP No.6591/2021, 18-06-2021 in WP No.6591/2021, 02-08-2021 in WP No. 6591/2021 passed by the High Court Of Judicature At Madras)

RAJESH DAS

Petitioner(s)

VERSUS

GOVERNMENT OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and I.R.; IA No.94831/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No.94828/2021 - FOR PERMISSION TO FILE PETITION; IA No.94832/2021 - FOR PERMISSION TO FILE LENGTHY LIST OF DATES; and, IA No.94830/2021 - FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

TRANSFER PETITION (CRL.) No.317/2021

(FOR ADMISSION; and, IA No.98119/2021 - FOR STAY)

Date : 18-08-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. S. Elambharathi, Adv.
Mr. Abdul Saleem, Adv.
Mr. Balaji Srinivasan, Adv.
Mr. Sameer Rohatgi, Adv.
Mr. Mayank Kshirsagar, AOR
Ms. Pankuri, Adv.
Mr. M. Thangathurai, Adv.

For Respondent(s) Mr. Dushyant Dave, Sr. Adv.
(State of T.N.) Mr. V. Krishnamurthy, AAG
Dr. Joseph Aristotle S., AOR
Ms. Preeti Singh, Adv.

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

Permission to file the Special Leave Petitions is granted.

Orders dated 01.03.2021, 12.03.2021, 16.03.2021, 23.03.2021, 30.04.2021, 18.06.2021 and 02.08.2021 passed by the High Court of Madras in *Suo Moto Writ Petition No.6591 of 2021* are presently under challenge.

Suo Moto cognizance was taken by the High Court in respect of an incident that was projected in FIR No.1 dated 27.02.2021 lodged with Police Station Villupuram, District CBCID-North, in respect of offences punishable under Sections 354A(2), 341 and 506(1) of the Indian Penal Code, 1860 and Section 4 of the Prohibition of Harassment of Women Act, 2002.

Mr. Mukul Rohatgi, learned Senior Advocate appearing for the petitioner submits *inter alia*:

- a. There was no occasion and necessity for the High Court to take *suo moto* cognizance in the matter and keep monitoring the progress of the matter.
- b. It was only because of the orders passed by the High Court that the investigation was undertaken, which is evident from the urgency exhibited by the investigating machinery in filing the charge-sheet in shortest possible time.
- c. It was also at the instance of the High Court that the Department took action against the petitioner and he presently stands suspended.

- d. The attempts on behalf of the petitioner to implead himself did not meet with any success and the submissions advanced by the petitioner were not considered on the ground that the defence of the accused need not be gone into at the stage of monitoring the progress of the investigation.
- e. After the cognizance was taken by the concerned Court, the observations made by the High Court in paragraphs 7 and 8 of the order dated 02.08.2021 were to the following effect:

- "7. Accordingly, there shall be a direction to the learned Chief Judicial Magistrate, Villupuram, to proceed further and frame charges and conduct the trial on a day to day basis in line with the guidelines issued by the Hon'ble Supreme Court in *Vinod Kumar v. State of Punjab*, reported in [2015] 1 MLJ (Cr1.) 288 (SC). In any event, the proceedings shall be completed on or before 20.12.2021 and a compliance report shall be filed before this Court. If in case, the learned Chief Judicial Magistrate, Villupuram, requires extension of time, for any reasons, an appropriate memo shall be filed before this Court and the same will be considered. As far as possible, the proceedings shall be conducted without granting unnecessary adjournments and it will be the duty of the respondent police, to summon the witnesses without causing any undue delay. It goes without saying that the witnesses will be cross examined on the same day they are examined in chief, unless such cross examination is not able to be conducted or concluded on the same day due to reasons beyond control.
8. Post this case under the caption "for reporting compliance" on 23.12.2021."

- f. In view of such directions, the charges are bound to be framed by the concerned Court.

In the circumstances, it was submitted by Mr. Rohatgi that the petitioner would stand denied fair trial in the matter.

The apprehension expressed by Mr. Rohatgi has been countered by Mr. Dushyant Dave, learned Senior Advocate appearing for the State submitting *inter alia*:

- a. The attempt on the part of the High Court was only to monitor the investigation and not to guide the investigation in a particular manner.
- b. The cognizance was taken by the concerned competent Court based on the material placed before it and not because of any directions of the High Court.
- c. Despite the observations made in paragraph 7 of the order dated 02.08.2021, the Trial Court must apply its own mind and judicial discretion must be applied as the facts and circumstances on record may justify.

Mr. Dave readily accepts that paragraphs 7 and 8 of the order dated 02.08.2021 may need appropriate correction but in his submission the earlier orders passed by the High Court were only from the standpoint of ensuring fair investigation into the matter and cannot be taken as reflection on merits of the matter.

Considering the rival submissions and the facts and circumstances on record, we direct as under:

- a. Paragraphs 7 and 8 of the order dated 02.08.2021 shall stand expunged.
- b. The matter shall be considered by the concerned Court purely on its own merits without being influenced in any manner by any of the aforesaid orders dated 01.03.2021, 12.03.2021, 16.03.2021, 23.03.2021, 30.04.2021, 18.06.2021 and 02.08.2021 passed by the High Court.
- c. As observed by the High Court in its order dated 23.03.2021, no interference at any juncture was caused by the accused and, as such, there would not be any apprehension of any interference or influence being exerted by the petitioner.
- e. It is made clear that the charges may be framed by the concerned Court in accordance with law and not purely as a result of the directions issued by the High Court in paragraph 7 of the order dated 02.08.2021.

With these directions, Suo Moto Writ Petition No.6159 of 2021 stands disposed of as, in our view, no further monitoring is called for.

With these observations, the Special Leave Petitions are disposed of.

TRANSFER PETITION (CRL.) No.317/2021

In view of the aforesaid order in SLP (Civil) Diary No.18070 of 2021, Mr. Mukul Rohatgi, learned Senior Advocate, on instructions, seeks liberty to withdraw the Transfer Petition.

Liberty granted.

The Transfer Petition is, accordingly, dismissed as withdrawn.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER