

ITEM NO.16

COURT NO.13

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3567-3568/2017

(Arising out of impugned final judgment and order dated 09-10-2015 in WPCRL No. 4765/2014 09-10-2015 in WPCRL No. 4766/2014 passed by the High Court Of Judicature At Bombay)

SHAMIM KHAN

Petitioner(s)

VERSUS

DEBASHISH CHAKRABARTY & ORS.

Respondent(s)

(IA No. 6532/2017 - CONDONATION OF DELAY IN FILING)

WITH SLP(Crl) No. 4606/2017 (II-A)

SLP(Crl) No. 4608/2017 (II-A)

SLP(Crl) No. 4607/2017 (II-A)

Date : 16-04-2024 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Sanjay Parikh, Sr. Adv.
Mr. Raj Awasthi, Adv.
Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Karun Sharma, Adv.
Ms. Anupama Ngangom, Adv.
Ms. Rajkumari Divyasana, Adv.
Ms. Maulshree Pathak, Adv.
Ms. Meenakshi Vimal, Adv.

Mr. V. Madhukar, Adv.
Mr. Mohit D. Ram, AOR
Ms. Monisha Handa, Adv.
Mr. Rajul Shrivastav, Adv.
Mr. Anubhav Sharma, Adv.

For Respondent(s) Mr. Sanjay Kharde, Sr. Adv.
Mr. Satyajit Kharde, Adv.
Mr. Abhishek Mane, Adv.
Mr. Sunil Kumar Sethi, Adv.
Mr. Kailas Bajirao Autade, AOR

Mr. Sanjay Kharde, Sr. Adv.
Mr. Satyajeet Kharde, Adv.
Mr. Sunil Kumar Verma, AOR

M/S. J S Wad And Co, AOR
Mr. Ashish Wad, Adv.
Mrs. Tamali Wad, Adv.
Mr. Ajeyo Sharma, Adv.
Ms. Akriti Arya, Adv.

Mr. Samrat Krishnarao Shinde, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Abhishek Bharti, Adv.
Mr. Santosh Pathak, Adv.
Mr. Purva Naik, Adv.
Ms. Aarti Mahto, Adv.
Mr. Balaji Srinivasan, AOR

Mr. P. N. Puri, AOR

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

Heard learned counsel on both sides. Upon hearing the learned counsel and on perusing the materials on record, we find that the question which was already referred to a larger Bench, as per the judgment in "Manju Surana vs. Sunil Arora & Ors." (2018) 5 SCC 557, is involved in this case as well.

The question referred under the judgment in Manju Surana's case (supra) is whether, while directing an investigation in terms of provisions under Section 156(3) of the CrPC, the Magistrate is applying his mind. In other words, whether the Magistrate takes 'cognizance at that stage'.

We are of the considered view that scanning of the provisions under Sections 156(3), 173(2), 190, 200, 202, 203 and 204 of the CrPC would, *prima facie*, reveal that while directing for an investigation and forwarding the complaint therefor, the Magistrate is not actually taking cognizance. However, since the said question is referred as per the above judgment, judicial discipline and propriety dissuade us from proceeding further with the case and hence, we order to tag the captioned matters also along with the matter(s) already referred. Ordered accordingly.

The judgment in Manju Surana (supra) would reveal that the matters were referred to larger Bench on 27.3.2018. Considering the fact that question involved is a matter of relevance and such issues arises frequently for consideration before Courts, we are of the considered view that an earlier decision on the question referred is solicited.

Registry is directed to place these matters before the Hon'ble the Chief Justice of India for appropriate orders.

(DR. NAVEEN RAWAL)
DY. REGISTRAR

(POOJA SHARMA)
COURT MASTER (NSH)