

SUPREME COURT OF INDIA

Bench: JUSTICE ABHAY S. OKA and JUSTICE PANKAJ MITHAL

Date of Decision: October 30, 2023

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3347 OF 2023

(Arising out of S.L.P.(CrI.) No.9667 of 2023)

SHIV KUMAR SHARMA

... APPELLANT(S)

Versus

THE STATE OF MADHYA PRADESH & ORS.

... RESPONDENT(S)

Legislation:

Section 482, 173 of the Code of Criminal Procedure, 1973 (CrPC)

Article 136 of the Constitution of India

Subject: Quashing of FIR - Consideration of merits by the High Court - Extension of interim relief – Remand Back.

Headnotes:

Criminal Appeal – Quashing of FIR – High Court's rejection of petition under Section 482 of CrPC without considering the merits – Strange approach by the High Court – Order set aside, and the case remanded to the High Court for consideration on merits.

Interim Relief – Extension of interim relief granted by the Supreme Court – Appellant allowed to apply for continuation of interim relief if the remanded case is not decided by a specified date – High Court directed to decide the case on merits without being influenced by the interim relief.

Referred Cases: None.

Representing Advocates:

For Petitioner(s): Mr. Chinmoy Khaladkar, Adv., Mr. Abhinav Agnihotri, Adv., Ms. Salonee Paranjape, Adv., Mr. B. K. Pal, AOR

For Respondent(s): Mr. Yashraj Singh Bundela, AOR, Mr. Vishnu Kant, Adv., Mr. Pawan, Adv., Ms. Jyoti Verma, Adv., Mr. Devesh Pratap Singh, AOR, Mr. Rahul Kulhare, Adv., Mr. Tanishq Tyagi, Adv., Mr. Kaustubh Anshuraj, Adv., Mr. Sanjay Tyagi, Adv., Mr. Yashish Chandra, Adv.

ORDER

Leave granted.

Heard the learned senior counsel appearing for the parties.

The prayer made by the appellant before the High Court in a petition under Section 482 of the Code of Criminal Procedure, 1973

(for short "CrPC") was for quashing the First Information Report. By the impugned order, the High Court has rejected the said petition without going into the merits of the case made out by the appellant. Strangely, the High Court has observed that the Investigating Officer will give opportunity to the appellant to explain the material collected against him during the investigation before submission of the final report under Section 173 of CrPC. To say the least, such approach is very strange and contrary to law.

In any case, the appellant's case on merits has not been considered by the High Court.

Hence, by setting aside the impugned judgment and order dated 12th April, 2023, we restore Miscellaneous Criminal Case No.13012 of 2023 before the High Court.

We direct the Registrar (Judicial) of the Madhya Pradesh High Court to list the restored petition before the roster Bench on 8th December, 2023 in the morning. The parties shall appear before the roster Bench on that day.

To enable the High Court to consider the case on merits, we extend the interim relief granted by this Court on 18th August, 2023 till 8th January, 2024 with a liberty to the appellant to apply to the High Court for continuation of interim relief in the event the remanded case is not decided till 8th January, 2024. The High Court will decide the case of the petitioner on merits without being influenced by the interim relief granted by this Court.

All contentions are left open, to be considered by the High Court.

The appeal is accordingly allowed on the above terms.

*Disclaimer: Always compare with the original copy of judgment from the official website.