

PETITIONER:
STATE OF WEST BENGAL

Vs.

RESPONDENT:
SUDHIR DEY AND ANR.

DATE OF JUDGMENT 04/12/1984

BENCH:
MISRA RANGNATH
BENCH:
MISRA RANGNATH
BHAGWATI, P.N.
SEN, AMARENDRA NATH (J)

CITATION:
1985 AIR 195 1985 SCR (2) 256
1985 SCC (1) 317 1984 SCALE (2) 942
CITATOR INFO :
RF 1985 SC 735 (4)
RF 1991 SC 1260 (42)

ACT:
Constitution of India, 1950-Art. 136-Criminal special
at Leave Petition Judicial interference in police
investigation by High Court by appointing Special officer to
inquire into the allegations of an offence-Special officer
already completed his inquiry-Question of law as to when
judicial interference in investigation permissible already
decided by Supreme Court in another case-Whether leave
should be granted on the same point.

HEADNOTE:

The petitioner challenged the order of a Division Bench
of the Calcutta High Court admitting the respondents to bail
and also appointing the Deputy Inspector General, Central
Bureau of Investigation as a Special officer to inquire into
the allegations relating to an offence of murder.

Dismissing the petition,

^

HELD: (1) A prayer for Special leave in a bail matter
of this type would not ordinarily be entertained by the
Supreme Court. Therefore, counsel for the petitioner rightly
does not seek to challenge the release on bail of the
respondents. [254F]

(2) In the instant case, the criminal case itself has
in the meantime been quashed by the Calcutta High Court.
State of West Bengal & Ors. etc. v. Sampat Lal & ors. [1982]
2 S.C.R. 256. the legal aspects have been indicated and the
principle to be plied to a case of this type has also been
stated. Keeping all these aspects in view and particularly
the fact that the Special officer had made a report which
indicates that the main fabrics of the allegations are true,
Court does not feel inclined to grant leave. The Special
Leave Petition is accordingly dismissed. [255E-E]

JUDGMENT:
CRIMINAL APPELLATE JURISDICTION Petition For special

Leave to Appeal (Criminal) No 1454/83

From the Judgment and order dated 20.6.83 of the Calcutta

High Court in Criminal Misc. Case No. Nil of 1983 under Sec. 439 of Criminal Procedure Code.

254

Somnath Chatterjee, HK Puri, S. Chosh and VK Bahl, for the petitioner.

KG Bhagat, Additional Solicitor General, RN Poddar and Miss Halida Khatoon, for the Union of India.

A.K. Sen, Sib Das Banerjee, Shri Naraian, for the respondent.

Judgment of the Court was delivered.

RANGANATH MISRA, J. This special leave application under Article 136 of the Constitution is directed against the order of a Division Bench of the Calcutta High Court dated June 20, 1983, admitting the respondents to bail and making the following direction:

"Undoubtedly, if the allegations of this nature are made against the responsible officers of the West Bengal Police, it will tarnish the image of the entire police force. Under the circumstances we direct the petitioners to hand over a copy of the petition with its annexures to the Deputy Inspector General, Central Bureau of Investigation, 13 Lindsay Street, Calcutta, who will act as a Special officer of this Court and enquire into the allegation made in this petition and its annexures and submit a report to this Court as to the truth of the allegation contained therein. This report must be submitted by 27th June. 1983.

In the meantime we direct the petitioners to be released forthwith on their executing P.R. Bond of Rs. 250 each."

So far as the question of release on bail of the respondents is concerned, petitioner's counsel does not seek to challenge it. In fact, a prayer for special leave in a bail matter of this type would not ordinarily be entertained in this Court. Challenge, however, is to the other part of the direction relating to enquiry by the Special officer.

The Special officer appointed in this case by the High Court has as a fact completed the enquiry and sent his report which under our direction has been brought here and we had the advantage of perusing it. The Special officer has found some of the allegations of the respondents to be true.

255

We have by a separate judgment delivered today in Criminal No. 570/83, dealt with the enquiry relating to the death of two teenagers by the names Tirthankar Das Sharma and Sanjib Chatterjee. Respondent 1, a retired Police Sub-Inspector was engaged as an investigating officer by the private detective agency-The Secret Eye. Respondent 2 happens to be the driver of a motor car of the Ananda Bazaar Patrika, a leading newspaper in Bengali published from Calcutta, which had engaged the private detective agency for the purpose of investigating into the death of the two teenagers. One Niranjana Ghosh, Assistant Sub-Inspector of Police attached to the GRP, Bandel, was concerned at the initial stage of the investigation by the police into the death of the two boys. on account of certain lacuna in the investigation of that case Niranjana Ghosh had been put under suspension. At that stage Niranjana Ghosh and respondent 1 had picked up acquaintance and respondent 1 had promised to help Niranjana Ghosh in preparing a representation against his suspension. Later on some dispute arose between the two which led to the institution of the criminal proceeding in

which bail for respondents became necessary;

The State of West Bengal filed this application for leave being aggrieved mainly by the direction for appointment of a Special officer. By our judgment in the criminal, appeal reference to which 13 we have made above, the legal aspects have been indicated and the principle to be applied to a case of this type has also been stated. We find that the criminal case itself has in the meantime been quashed by the Calcutta High Court. Keeping all these aspects in view and particularly the fact that the Special officer had made a report which indicates that the main fabrics of the allegations are true, we do not feel inclined to grant leave. This case does not require leave to be granted as the question of law has already been settled by us in the judgment of the criminal appeal and the factual aspects do not require a review by grant of leave. The application for special leave is accordingly dismissed.

M.L.A.

Petition dismissed.

256