REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 601 OF 2009

C.B.I. ....Appellant(s)

VERSUS

Pratap Chandra Reddy ....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. This appeal is filed against the final judgment and order dated 04.10.2006 passed by the High Court of Delhi at New Delhi in Criminal Revision Petition No.115 of 1999 whereby the High Court

allowed the revision petition filed by the respondent herein.

2. By order dated 26.03.2007, this Court issued notice limited to the question on the correctness of the High Court's order so far as it relates to the applicability of Foreign Contribution (Regulation) Act 1976 (hereinafter referred to as the "FCRA").

3. We heard the learned counsel for the parties and also perused the written submissions filed by the respondent.

4. It is not in dispute that the matter is *sub judice* and pending in the Court of Chief Metropolitan Magistrate, Delhi in a case titled **CBI vs. Nemi Chand Jain and others** in relation to certain offences alleged to have been committed by the respondent, which are punishable under the

Indian Penal Code, 1860 (hereinafter referred to as "IPC") and FCRA.

5. In our view, the issue with regard to the applicability of the provisions of the FCRA to the case at hand can be decided more properly only after the evidence is adduced by the prosecution and the material, if any, is brought on record by means of evidence against the appellant in the case.

6. At the initial stage of the proceedings in this case, it does not appear appropriate or possible to probe this issue and decide it on merits one way or the other for want of adequate material. It is for this reason, we decline to examine the issue at this stage in these proceedings and leave the parties to raise this plea only after the prosecution adduces the evidence on merits. The Trial Court will then record

its finding at that stage in accordance with law while disposing of the case.

7. Since the trial is pending for quite a long time, we direct the concerned Magistrate to proceed with the matter and dispose of the same in accordance with law within a period of one year from the date of this order without being influenced by any of the observations of the High Court made in the impugned order and in this order. In fact, we refrain ourselves from recording any finding on various submissions urged by the learned counsel for the respondent in his written submissions in the light of what we have observed *supra*.

8. With these observations, the appeal stands disposed of.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[INDU MALHOTRA]

New Delhi;
December 11, 2018