

State of West Bengal

Vs

Sudhir Dey and Another

Petition for Special Leave to Appeal (Criminal) No. 1454 of 1983

(P. N. Bhagwati, A. N. Sen, Ranganath Misra JJ)

04.12.1984

JUDGMENT

RANGANATH MISRA, J. –

1. This special leave application under the 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 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 the 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 June 27, 1983.

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

2. So far as the question of release on bail of the respondents is concerned petitioners counsel does not seek to challenge it. In the 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 the enquiry by the Special Officer.

3. 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.

4. We have by a separate judgment delivered today in Criminal Appeal No. 570/83 (State of W.B. v. Sampat Lal, (1985) 1 SCC 317), dealt with the enquiry relating to the death of the 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 the motor car of the Ananda Bazar 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 Niranjan Ghosh and respondent 1 had promised to help Niranjan Ghosh in preparing a representation against his suspension. Later on some dispute arose between the two which led to the institution of the criminal proceedings in which bail for the respondents became necessary.

5. 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 the which we have made above, the legal aspects have been indicated and the principle to be applied to a case of this has also been stated. We find that the criminal case itself has in the mean time been quashed by the Calcutta High Court. Keeping all these aspects in view and particularly the fact and 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.

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