

Karpoori Thakur

Vs

Baikunth Nath Dey and Another

Criminal Appeal No. 28 of 1988

(A. P. Sen, E. S. Venkataramiah JJ)

12.01.1988

ORDER

1. Special leave granted. Arguments heard.

2. In the facts and circumstances of the case, we have considerable doubt whether the High Court could have under section 482 of the Code of Criminal Procedure, 1973 adverted to paragraph 63 of the Case Diary or relied upon the letter addressed by the parties to the Officer Incharge, Ramgarh Police Station dated January 13, 1985, and quashed the prosecution against respondent 1 Baikunth Nath Dey on the ground that the parties had settled their disputes. It failed to appreciate that the alleged offences punishable under Sections 467, 468 and 471 of the Indian Penal Code, 1860 were not compoundable even with the permission of the Court, under Section 320 of the Code of Criminal Procedure. That apart, the subsequent letter addressed by the appellant Karpoori Thakur to the Officer Incharge, Police Station Ramgarh dated July 25, 1985 shows that respondent 1 did not deposit the money in accordance with the settlements. It is unfortunately that the High Court should have passed an order in a perfunctory manner.

3. Even so, we do not think that it would serve any useful purpose to direct the prosecution to continue. Nor would such a prosecution be in the public interest. The dispute relates to the withdrawal of Rs. 39,800 by respondent 1 through cheque No. 017818 from the account which stood with the Central Bank of India, Hazari Bagh in the name of 'Shri Karpoori Thakur for Chowdhari Charan Singh Fund (Lok Dal) '. The amount had been entrusted by the late Chowdhari Charan Singh the National President of the Lok Dal to the appellant for party work.

4. We do not think that it would also be expedient to allow the prosecution to continue, in view of the statement made by respondent 1 Baikunth Nath Dey, advocate, who is present in court. He states before us that he is agreeable to the Central Bank of India, Ramgarh transferring the remaining amount of Rs. 38,000 to the earlier account in the name of 'Shri Karpoori Thakur for Chowdhari Charan Singh Fund (Lok Dal) ' and undertakes to credit a sum of Rs. 1800 in that account to make good the deficit. The said amount of Rs. 39,800 shall not be disbursed by the bank except under the orders of the court of competent jurisdiction i. e. the account shall hereafter be operated by the rightful party, whoever it is.

5. The appeal is disposed of accordingly.

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