

R. S. Nayak

Vs

A. R. Antulay and Others

Criminal Miscellaneous Petition No. 1946 of 1990 an Criminal Appeal No. 486 of 1986

(B. P. Jeevan Reddy, K. N. Singh, P. B. Sawant, G. N. Ray JJ)

10.12.1991

JUDGMENT

JEEVAN REDDY, J. –

1. By this application the complainant R. S. Nayak is seeking a direction from Court to the effect that the evidence so far recorded in Special Case No. 24 of 1982 in the Bombay High Court shall be treated as evidence recorded in the Special Court which will now try the said criminal case. All the facts relevant to the application have been stated in the main judgment pronounced a little while ago (A. R. Antulay v. R. S. Nayak, (1992) 1 SCC 225). It is true that a large volume of evidence has been adduced by the complainant involving 57 witnesses and a large number of documents. It is stated that the trial took a year to record the said evidence on day-to-day basis. It is stated that re-adducing this evidence would be a herculean task and, therefore, the said direction is asked for. Unfortunately, we cannot. The seven Judge bench while pronouncing its judgment dated April 29, 1988 (A. R. Antulay v. R. S. Nayak, (1988) 2 SCC 602) was fully aware of this consequence. In fact this aspect has been specifically pointed out by one of the dissenting Judges, Venkatachaliah, J. In other words, the seven Judge bench was fully conscious of these consequences and yet they chose to give a direction of the nature asked for herein. Giving such a direction at this stage would in fact amount not only to review of the order dated April 29, 1988 (A. R. Antulay v. R. S. Nayak, (1988) 2 SCC 602) but would also run counter to the spirit of the said order. The application is accordingly dismissed.

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