

State of Rajasthan

Vs

Kalayan Sundaram Cement Industries Ltd. and Others

Civil Appeal No. 3644 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

12.02.1996

ORDER

1. Leave granted.

2. This appeal by special leave arises from the order of the learned Single Judge made in Civil Revision No. 209 of 1994 on 16-11-1994 of the High Court of Rajasthan. Admittedly, the respondent-Company after inviting tenders had executed an agreement on 13-4-1969 for execution of the project. Thereafter, three post dated cheques of dates between May and July 1989 were given for a sum of Rs. 6,87, 100 each of which got bounced. After issuing said notice, the suits were filed for recovery. Simultaneously, proceedings were initiated under Section 138 of the Negotiable Instruments Act and also under Section 420 IPC in three complaints, CCs Nos. 219, 220 and 254 of 1989. The High Court stayed the proceedings of the civil suits pending disposal of the criminal cases. This appeal came to be filed against the said order.

3. It is settled law that pendency of the criminal matters would not be an impediment to proceed with the civil suits. The criminal court would deal with the offence punishable under the Act. On the other hand, the courts rarely stay the criminal cases and only when the compelling circumstances require the exercise of their power. We have never come across stay of any civil suits by the courts so far. The High Court of Rajasthan is only an exception to pass such orders. The High Court proceeded on a wrong premise that the accused would be expected to disclose their defence in the criminal case by asking them to proceed with the trial of the suit. It is not a correct principle of law. Even otherwise, it no longer subsists, since many of them have filed their defences in the civil suit. On principle of law, we hold that the approach adopted by the High Court is not correct. But since the defence has already' been filed nothing survives in this matter.

4. The appeal is accordingly allowed. The order of the High Court is set aside. No costs.