

Union of India

Vs

Sushil Kumar Modi

(CJI J. S. Verma, S. P. Bharucha, S. C. Sen JJ)

06.11.1997

JUDGMENT

1. I.A. Nos. 5 and 6 are allowed.,

2. Leave granted.

3. These appeals by special leave are against the order dated 29th August, 1997 passed by the Patna High Court in CWJC Nos. 1617 of 1996 and 602 of 1996.

4. The grievance made by the learned Attorney General, appearing for the appellant, the Union of India, is not merely against the directions given in the said order but also against the general observations made therein. It is submitted that a chargesheet having been filed against Shri Laloo Prasad Yadav in the Special Court, the monitoring process in the High Court in regard to this particular matter had come to an end and, therefore, there was no occasion for the High Court to retain seisingram over the same or to issue any directions, much less make the observations contained in the impugned order. The learned Attorney General also submitted that the warrant against Shri Laloo Prasad Yadav having been issued by the Special Court in which the charge-sheet had been filed after completion of the investigation against him, the execution of the warrant was the concern of the Special Court and, therefore, there was no occasion for any officer of the CBI to approach the High Court or for the Division Bench of the High Court to issue any directions, oral or otherwise, for seeking the aid of the army for execution of the warrant against Shri Laloo Prasad Yadav. On this basis, it was contended that some of the directions given in the impugned order pertaining to the enquiry into the incident relating to the seeking of the aid of the army were not matters required to be gone into by the High Court and the directions relating to the same were untenable.

5. Shri Shanti Bhushan, the learned Amicus Curiae, rightly did not dispute the position that the monitoring process in the High Court in respect of the particular matter had come to an end with the filing of the charge-sheet in the Special Court and that the matter relating to execution of the warrant issued by the Special Court against Shri Laloo Prasad Yadav was a matter only within the competence of the Special Court so that there was no occasion for the High Court to be involved in any manner with the execution of the warrant.

6. This position is so obvious that no discussion of the point is necessary. However, we may add that this position has never been doubted in similar cases dealt with by this Court. It was made clear by this Court in the very first case, namely Vineet Narain & Ors. Vs. Union of India (W.P.(Crl.) Nos. 340-343 of 1993), that once a charge-sheet is filed in the competent court after completion of the

investigation, the process of monitoring by this Court for the purpose of making the CBI and other concerned investigative agencies perform their function of investigating into the offences concerned comes to an end; and thereafter it is only the court in which the charge-sheet is filed which is to deal with all matters relating to the trial of the accused, including matters falling within the scope of Section 173(8) of the Code of Criminal Procedure. We make this observation only to reiterate this clear position in law so that no doubts in any quarter may survive. It is, therefore, clear that the impugned order of the High Court dealing primarily with this aspect cannot be sustained.

7. The learned Attorney General expressed the apprehension that certain observations in the impugned order of the High Court may be construed as enabling the High Court to monitor/control even disciplinary proceedings against an officer of the CBI if he happens to be in the team investigating any of the alleged offences. This prompts us to observe that the monitoring by the High Court of the case for the purpose of ensuring that the CBI and other agencies properly investigate the alleged offences and file a charge-sheet if a prima facie case is made out does not mean that the normal disciplinary control of departmental superiors over the concerned officers stand transferred to the High Court. The order made by the High Court in this behalf has to be understood merely as ensuring that there would be no interference in the investigative work being performed by the officers in the team which might hinder the course of the investigations.

8. We have already said that in this matter, after the charge-sheet was filed in the Special Court, no part of the proceeding remained in the High Court, since the process of monitoring had already ended with the filing of the charge-sheet, and, therefore, there was no occasion for any of the officers of the CBI to approach the High Court respect of a matter which was being dealt with by the Special Court or for the High Court to take any action thereon. The entire order of the High Court having been made in this situation, the whole of it has to be set aside.

9. We make it clear that this order is in respect of the matter in which the charge-sheet has been filed. Further monitoring, if any, pending in the High Court will be done in accordance with this order.

10. We are thankful to Shri Shanti Bhushan, learned Amicus Curaie, for his able assistance.

11. The appeals are allowed and the impugned order dated 29th August, 1997 are set aside.

12. No costs.