

SUPREME COURT OF INDIA

Joseph P. Bangera

Vs.

State of Maharashtra

Crl.A.No.429 of 2000

(B. N. Agarwal and A. K. Mathur JJ.)

17.11.2005

ORDER

1. Heard the parties.
2. By the impugned order High Court refused to quash prosecution of the appellant under Section 135 of the Customs Act (hereinafter referred to as 'the Act') read with Sections 4 and 5 of the *Imports and Exports (Control) Act, 1947*.
3. It appears that after interception of a vessel on 24th October, 1982 adjudication proceeding started in which the vessel in question was confiscated and penalty was imposed against the appellant. Arising out of the penalty proceeding, the matter was taken to Customs, Excise and Gold (Control) Appellate Tribunal (hereinafter referred to as 'CEGAT') and, by order dated 18th April, 1995, the appeal has been allowed and penalty has been deleted on merit. It has been submitted that in view of the fact that penalty imposed, against the appellant under the provisions of the Act, has been deleted by CEGAT on merit, it would be just and expedient to quash the prosecution as continuance thereof would amount to an abuse of the process of court. In support of his submission, the learned counsel has placed reliance upon judgment of this Court in *K.C. Builders V Anr. v. Assistant Commissioner of Income-tax* in which, following its early decisions, this Court quashed criminal prosecution of the accused under the provisions of the Income-tax Act on the sole ground that penalty imposed against him was deleted on merit. In our view, the present case is squarely covered by the aforesaid decision of this Court, as such, it would be just and expedient to quash the prosecution of the appellant.
4. Accordingly, the appeal is allowed and prosecution of the appellant is hereby quashed.