

SUPREME COURT OF INDIA

Rahul Gandhi

Vs.

Rajesh Mahadev Kunte & Anr.

SLP.(CrI.)No.3749/2015

(Dipak Misra and Rohinton Fali Nariman, JJ.,)

01.09.2016

ORDER

1. Heard Mr. Kapil Sibal, learned senior counsel for the petitioner and Mr. U.R. Lalit and Mr. M.N. Krishnamani, learned senior counsel along with Mr. Anand and Mr. Merusagar, learned counsel for the respondents.

2. The petitioner had preferred Writ Petition No. 64 of 2015 invoking the jurisdiction of this Court under Article 32 of the Constitution of India challenging the constitutional validity of Sections 499 and 500 of the Indian Penal Code. The said petition was heard along with batch of matters and has been decided vide judgment in *Subramanian Swamy vs. Union of India, Ministry of Law and Ors*!. Be it noted, when the writ petition was pending in this Court, there was stay of further proceedings of OMA No.353 of 2014 pending before the learned 3rd Judicial Magistrate, First Class, Bhiwandi. It is apt to note here that after cognizance was taken and summons were issued to the petitioner, he preferred Criminal Writ Petition No.4960 before the High Court of Bombay for quashment of the proceedings as well as the order issuing summons. The learned Single Judge vide order dated 10.03.2015, after adverting to certain aspects and the law did not think it appropriate to interfere with the proceedings or with the order passed issuing summons by the learned Magistrate. Against the said order, the present special leave petition was preferred. As the writ petition was pending, notice was issued in the special leave petition but no order of stay was granted. The matter was taken up on various dates and on 19.07.2016, the matter was part heard. Thereafter it was heard on 27.07.2016 and thereafter on 24.08.2016, after hearing for some time, the matter was adjourned to today. We may note with profit that on the last occasion, certain Suggestions were given to learned counsel for the parties. Mr. Lalit, learned senior counsel who had to take instructions has submitted that the petitioner should make a statement in a particular manner.

3. Mr. Kapil Sibal, learned senior counsel submitted that the petitioner shall go by whatever has been stated in the writ petition preferred before the High Court.

4. Having heard learned counsel for the parties, when we expressed our opinion that we are not inclined to interfere, Mr. Sibal sought leave of this Court to withdraw the special leave petition.

5. The special leave petition is dismissed as withdrawn.

6. Needless to say, if any observation has been made by the High Court while disposing of the writ petition, the same shall be confined to be stated for the purpose of disposal of the writ petition and the trial Magistrate shall proceed in accordance with law without being influenced by any of the observations made by the High Court.

¹(2016) 7 SCC 0221