

SUPREME COURT OF INDIA

S.Ramesh

Vs.

State Rep. by Inspector of Police

Crl.A.No.583 of 2019

(Abhay Manohar Sapre and Dinesh Maheshwari,JJ.,)

02.04.2019

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(Crl.)No.5167 of 2018

1. Leave granted.
2. These appeals are directed against a common final judgment and order dated 04.05.2018 passed by the High Court of Judicature at Madras in Crl. O.P. Nos. 6231, 6322 & 6232/2018 whereby the High Court dismissed the criminal original petitions filed by the appellants herein.
3. It is not necessary to set out the factual matrix of the controversy except to the extent it is necessary for the disposal of these appeals.
4. By separate orders on 01.03.2018, the High Court allowed three Criminal Original Petition Nos. 6231/2018, 6322/2018 and 6232/2018, which were filed under Section 482 of the Criminal Procedure Code, 1973 (hereinafter referred to as "Cr.P.C") by the appellants herein for quashing of CC No.1725/2013 arising out of FIR in Crime Case No.3752/2012, CC No.4228/2015 arising out of FIR in Crime Case No.1815/2015 and CC No.6766/2014 arising out of FIR in Crime Case No.3752/2012.
5. These orders were passed by the High Court in the light of compromise dated 20.02.2018 said to have been arrived at between the parties. In other words, the High Court did not examine the merits of these three cases in the light of the alleged compromise said to have been arrived at between the parties and accordingly disposed of the same finally.
6. Respondent No.2 herein, who was respondent No. 2 in the disposed of criminal original petitions mentioned above, filed applications being Criminal Misc. Petition Nos. 6611, 6612 and 6613 of 2018 praying therein to recall the orders dated 01.03.2018.
7. The recall was sought on various grounds and on several facts. By a common impugned

order, the High Court in detail examined the questions and finding merit in the grounds urged, recalled the order dated 01.03.2018. However, while doing so, the High Court also dismissed the three criminal original petitions. It is against this order, the petitioners of three criminal original petitions have filed these appeals by way of special leave in this Court.

8. Heard learned counsel for the parties.

9. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow these appeals in part and modify the impugned order to the extent indicated hereinbelow.

10. In our considered opinion, though the High Court was right in recalling its earlier orders dated 01.03.2018 passed in three criminal original petitions but committed an error by simultaneously dismissing three Criminal Original Petition Nos. 6231, 6322 and 6232 of 2018 and that too without assigning any reason.

11. In our considered opinion, the effect of recalling the order dated 01.03.2018 was that the three criminal original petitions stood restored to their respective numbers for their disposal on merits in accordance with law as if the order dated 01.03.2018 had not been passed in those cases and that they remained pending for their disposal on merits.

12. The High Court, therefore, after recalling the orders passed on 01.03.2018 should have fixed the three criminal original petitions for their final hearing on merits. Instead of doing that, the High Court, on the one hand, restored the cases and, on the other hand, dismissed them also.

13. This approach of the High Court, in our view, was not legal and hence to that extent, the impugned order of the High Court deserves to be set aside.

14. Coming now to that part of the order, which relates to recalling of three orders passed on 01.03.2018, we find no good ground to interfere in the same.

15. In our opinion, keeping in view the grounds taken by respondent No.2 in the applications for recall of the orders, which found acceptance to the High Court, we find no good ground to interfere in that part of the order on the facts of the case alleged in the applications for recall. In other words, having regard to the facts alleged and grounds taken therein, the recall orders cannot be faulted with.

16. In view of the foregoing discussion, the appeals are allowed in part. The impugned order is set aside to the extent it dismissed Criminal Original Petition Nos. 6231, 6322 and 6232 of 2018.

17. These three cases are now restored to their original numbers. The High Court is requested to decide these three cases on merits in accordance with law.

18. Having formed an opinion to remand the case, we have not considered it necessary to set out the entire factual dispute and nor have gone into its merit. The High Court will, therefore, decide these cases on merits strictly in accordance with law uninfluenced by any observations made in the impugned order and in this order.