

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1087 of 2003

SUCCY BOBBY VARGHESE & ANR.

.....

APPELLANTS

VERSUS

OFFICIAL LIQUIDATOR

....

RESPONDENT

WITH

CRIMINAL APPEAL NO. 1086 OF 2003

CRIMINAL APPEAL NO. 1163 OF 2003

CRIMINAL APPEAL NO. 1088 OF 2003

AND

CRIMINAL APPEAL NO. 1164 OF 2003

O R D E R

1. We have heard the learned counsel for the parties.

2. Although special leave had been granted way back in 2003, subsequent to the grant of leave certain developments have taken place which require that the matter should be reconsidered by the High Court. Pursuant to the orders of the High Court made in Criminal Complaint No. 5 of 2003 in C.P No. 18 of 1999 a Special Officer had been appointed to suggest

measures and ways for the revival of the Company and to ensure that the dues of the Company were duly settled. This report dated 23rd December, 2009 is on file. It has come on page 71 of the additional documents filed by the appellants that the creditors/claimants seeking payment from the appellant-Company have been substantially settled though some disputes still remain for which some amounts have been kept aside. In para 11 of the Report afore-referred, the Special Officer has suggested as under:

"Regarding misfeasance applications, criminal complaints and debts claims pending before this Hon'ble Court. As mentioned in para 210 to 220 (page No. 95 to 99) of report No. 7, the decision of the Committee be approved, misfeasance application may be dismissed, criminal complaints pending before this Hon'ble Court may be closed as settled while criminal cases pending against the former Directors before the lower court (which is mentioned at para 221 and 222 page No. 99 and 100 of report No. 7) may be quashed by the Hon'ble High Court invoking in powers under 482 of Criminal Procedure Code, in the interest of promoting the ends of justice, preventing the abuse of process and facilitating the revival of the company."

3. In the light of the aforesaid suggestions and

keeping in view of the above facts, it is appropriate that the matter should be remitted to the High Court for reconsideration as the matter for revival of company is pending before the High Court. We, accordingly, quash the orders of both the Company Judge dated 26th November, 2002 and that of the Division Bench dated 23rd May, 2003 and remit the case to the High Court for decision afresh and to make an order in the backdrop of the report of the Special Officer.

4. The appeals are accordingly disposed of.

5. In the light of the above order, all other pending applications are disposed of.

.....J
[HARJIT SINGH BEDI]

JUDGMENT.....J
[J.M. PANCHAL]

NEW DELHI
APRIL 20, 2010.