

CASE NO.:
Appeal (civil) 1766 of 2008

PETITIONER:
STATE OF WEST BENGAL

RESPONDENT:
PRANAB KUMAR SAHA

DATE OF JUDGMENT: 04/03/2008

BENCH:
S.H. KAPADIA & B. SUDERSHAN REDDY

JUDGMENT:
JUDGMENT

O R D E R
(Arising out of SLP(C) No. 18890/07)
Leave granted.

In this appeal two following questions arises for determination :

(a) Whether the Police officials appointed in the Bureau of Investigation shall continue to retain their power and authority under Cr.PC.? In other words, whether after lodgment of FIR alleging commission of offences under West Bengal Sales Tax Act, 1994 and IPC? whether Police officials attached to the Bureau of Investigation, lose their power and authority to carry out investigation as regards alleged criminal offences.

(b) Whether the words "Proceedings triable" contained in Section 6(2) of the West Bengal Taxation Tribunal Act, 1987 covers proceedings commencing from the beginning of the trial and not proceedings after lodgment of FIR?

As regards the first question, the matter stand disposed of in terms of the Judgment of the Division Bench of this Court in the case of State of West Bengal Vs. Narsayan K. Patodia reported in 2000(4)SCC 447.

As regards question No.2, we quote hereinbelow the observation made by the Tribunal at page 43 which reads as under:

"As regular offences created by the Act of 1994 this Tribunal has jurisdiction, power and authority excepting that this Tribunal has no jurisdiction to try such offence inasmuch as it will be tried, if necessary, by the prescribed Court in accordance with the provisions of the Cr.P.C. Upto the stage of prior to commencement of trial, this Tribunal has jurisdiction to interfere but it may not or should not interfere if any competent Criminal Court is in seisin of the case and has passed orders unless there is grave error of law and manifest injustice."

At the same time we also quote hereinbelow the principles formulated by the Tribunal in the matter of its jurisdiction power and authority over investigation enquiry or proceedings conducted under Cr.PC.

(1) This Tribunal does not have any jurisdiction, power and authority over any investigation, enquiry or proceedings conducted under the provisions of the Criminal Procedure Code in respect of alleged or suspected offences under the Indian Penal Code.

(2) This Tribunal has jurisdiction, power and authority to entertain lawful grievances against conduct, actions and or inactions of the persons dealing with any alleged or suspected offence under the provisions of the W.B. Sales Tax Act, 1994, till a competent criminal court takes cognizance of the offence and proceeds to try the offence.

On reading the aforesaid paragraphs from the decision of the Tribunal, we find that while setting out the principles, the Tribunal has correctly stated that it does not have jurisdiction, power and authority over any investigation, enquiry or proceedings conducted under Criminal Proceedings Code in respect of IPC alleged offences. To this extent the proposition is correct. However, at page 43 of the SLP, the Tribunal has stated that upto the stage of

commencement of the trial it has jurisdiction to interfere. This is not the correct proposition. In our view the observation at page 43 of the SLP paper book made by the Tribunal is unsustainable and untenable if one keeps in mind the scheme of Sections 154 and 156 of the Crl. Procedure Code. To that extent appeal is allowed partly.

No order as to costs.

JUDIS