

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SLP (CrL.) Nos. 3911/2008 and 4039/2008

Bharat Malubhai Modhwadia
Petitioner

...

VERSUS

The State of Gujarat and another

...Respondents

1. The petitioner is aggrieved by an interim order granting stay of operation of the order dated 29th of March, 2008 passed by the Trial Court in exercise of its powers conferred by Section 319 of the Code of Criminal Procedure (in short, “The Code”). By the order dated 29th of March, 2008, the Additional Sessions Judge and Presiding Officer, Fast Track Court, Porbandar allowed an application under Section 319 of the Code and directed that bailable warrant of Rs. 25000/- be issued against Sh. Babubhai Bhimabhai Bokhria and also directed his production as accused in the further proceedings of the case.

2. Against the aforesaid order, a Special Criminal Application has been filed, which is now pending decision. By way of an interim relief, the aforesaid order of the Additional Sessions Judge and Presiding Officer, Porbandar dated 29th of March, 2008 was stayed.

3. Against the aforesaid interim order of the High Court, this Court on 16th of May, 2008 passed the following order by way of an interim measure:-

*“Issue notice.
Learned counsel appearing on behalf of Respondent No. 2 accepts notice. He submits that the case is complete and has been listed for judgment tomorrow. He may file his counter affidavit within four weeks. Meanwhile, in case any order is passed it may be subject to the final order passed by this Court.
Issue notice to other respondents also.”*

4. However, an application was filed by the petitioner for vacating the interim order granted by the High Court in the aforesaid pending application before it. By an order dated 6th of May, 2008, the application for vacating the interim order, as indicated hereinabove, was however rejected by a learned

Judge of the High Court, against which another Special Leave Petition being SLP (Crl.) No. 4039 of 2008 has been filed in this Court, in which the following order was passed :-

*“Issue notice.
Learned counsel appearing on behalf of Respondent No. 2 accepts notice. He submits that the case is complete and has been listed for judgment tomorrow. He may file his counter affidavit within four weeks. Meanwhile, in case any order is passed it may be subject to the final order passed by this Court.*

Issue notice to other respondents also.”

5. The aforesaid two Special Leave Petitions came up for hearing before us. After giving hearing to the learned Senior counsel appearing for the parties and after going through the impugned orders and without going into the merits of the questions raised before us on the application under Section 319 of the Code, we feel it proper to dispose of the SLPs in the following manner :-

- a) Since the Special Criminal case is now pending before the High Court, we feel it proper to request the High Court to decide the said case within a period of four

weeks from this date without granting any unnecessary adjournments to either of the parties.

b) In the event, the decision has not yet been arrived at in the trial, in that case, the judgment shall not be pronounced by the trial Court for a period of four weeks from this date.

6. With the aforesaid directions, these Special Leave Petitions are disposed of.

.....J.
[TARUN CHATTERJEE]

.....J.
[V.S. SIRPURKAR]

New Delhi;
November 14, 2008