

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 846 OF 2009
(Arising out of S.L.P. (Crl.) No.636 of 2007)

Sri Krishna Tyres & Anr.

..Appellants

Versus

J.K. Industries Ltd. & Anr.

..Respondents

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in this appeal is to the order passed by a learned Single Judge of the Andhra Pradesh High Court disposing of the application filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 (in short 'Code'). In the application the order dated 12.12.2006 in CC No.341/1999 passed by a learned IIIrd Additional Chief Metropolitan Magistrate, Vijaywada, was questioned. The High Court noted that because of the order of stay passed by the High Court in an earlier proceeding in Crl. R.C. No.2026/2000, the trial Court was justified in completing the trial. Learned counsel for the appellant submitted that the High Court has failed to notice the relevant aspects. It is pointed out that two defence witnesses were permitted to be examined as defence witnesses by order of learned III Additional Chief Metropolitan Magistrate, Vijaywada, in C.C. 341/999 dated 20.11.2006. The same was challenged by respondent no.1 by filing a revision

petition. What the High Court did by order dated 8th December, 2006 was to direct suspension of the said order. The trial Court was directed to dispose of the matter within one month from the date of the receipt of the order. This according to learned counsel for the appellant virtually sealed the proceedings and even without considering the acceptability or otherwise of the petition filed by respondent no.1, the trial was directed to be disposed of.

3. Learned counsel for the respondent no.1 on the other hand submitted that by virtue of the High Court's order proceedings have been completed.

4. It is to be noted that in Criminal Revision No.2026/2006 respondent no. 1 had questioned the correctness of the order permitting the examination of two defence witnesses. Without examining the acceptability of the challenge the High Court could not have directed disposal of the trial itself while directing suspension of the order impugned before it. In other words, the final relief was granted at an interim stage.

5. When the petition, which is the subject matter of the consideration in the present appeal, was taken up by the High Court a fait accompli was presented that the order have been passed pursuant to the earlier order of the High Court.

6. In the circumstances we set aside the orders dated 8.12.2006 and 19.12.2006 passed by the High Court. The High Court shall now hear the Crl. R.C.No.2026/2006 and decide it on merits. As a consequence of our order, if any adjudication has been done by the trial Court the same shall get nullified. We request the High Court to dispose of the matter as early as practicable, preferably by the end of October, 2009.

7. The appeal is disposed of accordingly.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(ASOK KUMAR GANGULY)

New Delhi,
April 27, 2009

