

CRL.A No. 1/2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

05.05.2015

Ms. K. Chesa, learned counsel, appears for the appellants.

Mr. R Den Nath, learned CGC, represents the respondents.

List the matter along with CRL. A. No. 3/2011 tomorrow
(06.05.2015).

JUDGE

CHIEF JUSTICE

Sylvana

**BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

05.05.2015

Mr. R. Deb Nath, learned CGC, appears for the appellants.

Mr. SP Mahanta, learned senior counsel, represents the respondents.

The matter is to remain part heard. List on 06.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

W.P. (Crl) No. 8/2014
with W.P. (Crl) No. 13/2014
W.P. (Crl) No. 14/2014
W.P. (Crl) No. 15/2014
W.P. (Crl) No. 16/2014
W.A. No. 22/2014
W.P. (Crl) No. 13/2013
W.P. (Crl) No. 9/2014
W.P. (Crl) No. 12/2014
W.P. (Crl) No. 17/2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

05.05.2015

Ms. S.G. Momin, learned counsel, appears for the appellant.

Mr. KS Kynjing, learned AG assisted by Mr. S.Sen Gupta,
learned GA, represents the State respondents.

Mr. KS Kynjing, learned AG states that in terms of the last order he has examined the file and sought instructions. There is no request for the presidential assent during the enactment of Meghalaya Preventive Detention Act (MPDA). He also stated that the Central Government was thus not a party to the enactment process of the statute. However, on his request to argue on the question of validity of the Act, he is granted further 2 (two) weeks' time.

List the matter on 20.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

BEFORE

THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

05.05.2015

Mr. KS Kynjing, learned AG assisted by Mr. K.Khan, learned Addl. SR. GA, appears for the appellants.

A Division Bench comprising of the then Hon'ble Chief Justice and Hon'ble Mr. Justice T Nandakumar Singh passed the following order on 28.05.2014:

“

**WA No. 35 of 2014
In WP(C) No. 199 of 2012**

28.05.2014

Shri. K. Khan, Addl. Sr. GA, present for the appellants.

Heard.

This writ appeal is directed against the judgment and order dated 27.03.2014, passed in WP(C) No. 199 of 2012, whereby, learned single Judge has directed the respondents to pay compensation of Rs. 7,20,000/- to the writ petitioner No. 1 (minus Rs. 1 lakh as he has already received as Ex-gratia payment).

Learned counsel for the appellants argued that learned single Judge had erred in law in ignoring the guidelines relating to awarding compensation in the matter of loss caused on account of riots due to the dispute between the private parties.

Admit the appeal.

Issue notices to respondents.

List after service of notice on respondents. Meanwhile, as an interim measure, it is directed that operation of the order dated 27.03.2014 is stayed until further orders of this Court.”

Thereafter, the matter was listed on several dates and on 12.11.2014, notice was issued to Secretary Legal Affairs and Legislative Affairs, Govt. of India:

“

WA. No. 35 of 2014

12-11-2014

Issue notice to Secretary, Legal Affairs and Legislative Affairs, Govt. of India, to produce the file connected with drafting of Act No. 5 of 2009 (Section 28) that came into force on 31-12-2009, just for assistance to the Court as to why the expression ‘recommendation’ was inserted in Section 357-A and not the word ‘direction’. We shall appreciate if the reports of Law Commission, and Parliamentary Committee, and copy of parliamentary debates etc, if any, on the subject matter are also submitted to the Court.

These informations are needed also in view of the fact that there is no discussion/observation on the issue in the judgment in Mohd. Haroon and Ors-v-Union of India and Anr [(2014) 5 SCC 252]. Learned Advocate General, State of Meghalaya, and a Senior Law Officer of Govt. of India, may assist the Court for clarification of the position.

List on 27-11-2014.”

Thereafter, upon receipt of letters from Ministry of Law, Justice and Legislative Department, we passed the following order on 05.02.2015:

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**WA No.35 of 2014
In WP (C) No. 199 of 2012**

05.02.2015

Mr. K Khan, learned Addl. Senior GA, appears for the appellants.

Ms. SG Momin, learned counsel, represents the respondents.

We have perused the letters issued by Ministry of Law and Justice, Legislative Department (File No. 17(2)/2014-Leg.I) and Ministry of Home Affairs/Grih Mantralaya, Judicial Cell (File No. 10/2/2014-Judl. Cell).

Let a direction issue to Ministry of Home Affairs, Government of India, New Delhi, dealing with Code of Criminal Procedure, 1973 and Indian Penal Code, 1860, to submit the file as required vide the order dated 12.11.2014.

Registry is directed to send this order along with the said order (12.11.2014) for immediate compliance.

List the matter on 19.02.2015.”

Again on 16.04.2015, this Court passed the order as:

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WA No. 35/2014

16.04.2015

Mr. K.S.Kynjing, learned AG, appears for the appellants.

Ms. S.G. Momin, learned counsel, represents the respondents.

Learned Advocate General prays for and is granted 2 (two) weeks' time to find out the case laws as to whether the courts as an institution can be said to be a recommendatory authority when the Presiding Officers are not supposed to take recommendation or give recommendation.

List the matter on 05.05.2015.”

It appears, that the word 'recommendation' has been used in the draft rules as per recommendation of Law Commission of India, hence, let a notice be issued to Member Secretary, Law Commission to clarify as to why has the word 'recommendation' been preferred to expression 'direction'.

List this matter on 20.05.2015.

JUDGE

CHIEF JUSTICE

Sylvana

BEFORE

THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH

05.05.2015

Ms. DCM Sangma, learned counsel, appears for the appellants.

Mr. ND Chullai, learned senior GA assisted by Mr. P. Yobin, learned GA, represents the State respondents.

Learned counsel for the appellant prays for and is permitted to withdraw this writ appeal. Hence, it is dismissed as such.

JUDGE

CHIEF JUSTICE

Sylvana