Crl Appeal No. 2 of 2014

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

09.04.2015

Mr MF Qureshi, learned counsel, appears for the appellant.

Mr ND Chullai, learned senior GA, represents the respondents.

We have heard learned counsel for parties and perused the last order.

Learned counsel for the appellant cited the judgment of Hon'ble the Supreme Court in the matter of ***Nar Singh vs. State of Haryana, reported in 2015(1) SCC 496*** with emphasis in particular on Paras 27, 28 and 32 thereof. There is no quarrel about the legal proposition that the Appellate Court has power to remand the matter for fresh trial. But the questions that may require answers are : as to whether without pronouncing on the merit of a case, after re-appreciation of evidence, should the Appellate Court set aside the judgment in toto and remand the case for re-trial or trial a fresh only on the basis of non-recording of statement of accused under 313 CrPC; and (ii) as to whether under such circumstances, should it be open for the trial court to re-appreciate the evidence contrary to appreciation of evidence done by earlier trial court which have not been considered and appreciated by the Appellate Court at the time of passing of remand order. In our view, prima facie, it would look contrary to the basic canon of criminal jurisprudence that the review of judgment in criminal cases is not permissible under the law.

In the light of all the aforesaid, we would like the learned counsel for parties to submit before us as to on which points of evidence learned trial Judge has taken a different view from the ones taken by the earlier trial court and reasons recorded therefor. Though it is a case of re-appreciation of evidence on conclusion of trial whereby conviction order has been reiterated but we cannot give a goby to another important principle of criminal jurisprudence that let 100 persons be acquitted but one innocent should not be punished.

List the matter on 21.04.2015.

JUDGE CHIEF JUSTICE

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Crl Appeal No. 3 of 2011

BEFORE

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

09.04.2015

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

Mr SP Mahanta, learned senior counsel, assisted by Mr H Abraham, learned counsel, appears for the respondents.

Learned counsel for Union of India states that a similar matter, wherein somewhat identical important questions of law have been raised is pending, as Criminal Appeal No. 1 of 2014. According to learned counsel, answer to those questions may have a direct bearing on the disposal of this criminal appeal. It is also a submission of learned counsel for Union of India that again on similar questions, the matter pending in Hon'ble the Supreme Court has been referred to a larger Bench and the hearing is not yet been concluded. List this criminal appeal with Criminal Appeal No. 1 of 2014 on the date fixed therein.

JUDGE CHIEF JUSTICE

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MC (WA)No. 12 of 2015
IN WA No._____

BEFORE

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

09.04.2015

Mr A Khan, learned counsel, appears for the applicants.

Mr HG Baruah, learned counsel, represents the respondent.

Learned counsel for respondent, Mr HG Baruah, prays for and is granted one week's further time to file objection to application for condonation of delay in filing the writ appeal. List on 16.04.2015.

JUDGE CHIEF JUSTICE

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MC(WA) No. 27 of 2015
IN WA No._____

BEFORE

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

09.04.2015

Mr B Deb, learned counsel, appears for the applicants.

Mr P Nongbri, learned counsel, represents respondent No. 5.

Learned counsel for applicants states that service of notice is complete.

Learned counsel Mr PN Nongbri has entered appearance on behalf of respondent No. 5, namely, Hav (Ciph) Piyush Kanti Nath. However, he states that he is expecting instructions also from other respondents. He, thus, prays for and is granted a week's time to file vokalatnama. List on 16.04.2015.

JUDGE CHIEF JUSTICE

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WP(C)[Taken Up]No. 340 of 2014

BEFORE

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

09.04.2015

No one appears for the petitioner.

Mr SP Mahanta, learned senior counsel, assisted by Mr H Abraham, learned counsel, appears for the respondents-Cantonment Board.

Learned senior counsel Mr SP Mahanta states that on enquiry 24 cases were found to be pending under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 in various Courts in District Shillong. He wants to place the same by way of affidavit. He may do so within a week. List on 17.04.2015.

JUDGE CHIEF JUSTICE

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WA. No. 43 of 2013

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE S.R.SEN

09-04-2015

Mr. K. Paul, learned Advocate, appears for the appellant.

Mr. N.D.Chullai, learned Sr. GA, assisted by Mr. R.Gurung, learned GA, represents the State respondents.

Learned Sr. GA for State respondents states that earlier the State was represented by learned AG in the matter. He has accepted the brief in his place only today. Thus, he prays for and is granted 10(ten) days' time to prepare and argue the matter particularly in the light of order dated 18-02-2015 passed by this Court.

List on 21-04-2015.

JUDGE CHIEF JUSTICE

S.Rynjah

WA No. 48 of 2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE S.R.SEN

09-04-2015

Mr K Paul, learned Advocate, appears for the appellants.

Mr R Jha, learned counsel for the respondent is said to be on sanctioned leave on account of hospitalization as a result of some accident. List the matter after 2(two) weeks on 23.04.2015.

JUDGE CHIEF JUSTICE

S.Rynjah

WA No. 49 of 2013

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE S.R.SEN

09-04-2015

Mr K Paul, learned Advocate, appears for the appellant.

Mr ND Chullai, learned Sr. GA, assisted by Mr R Gurung, learned GA, represents the State respondents.

Learned Sr. GA for the State respondents states that earlier the State Govt. was represented by learned AG in this matter. Now, he has accepted the brief in place of learned AG only today. Thus, he prays for and is granted ten days' time to prepare and argue the matter, particularly, in the light of the order dated 18.02.2015 passed by this Court.

List on 21.04.2015.

JUDGE CHIEF JUSTICE

S.Rynjah

WP(C) No. 329 of 2014

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE S.R.SEN

09-04-2015

Mr. V.K. Jindal, learned Sr. Advocate, assisted by Ms. Q.B.Lamare, learned Advocate, appears for the petitioner.

Mr. R.Deb Nath, learned Advocate, represents the respondents-Union of India.

Learned counsel for Union of India, prays for and is granted time till 14-04-2015 to file additional documents in terms of earlier order dated 26-03-2015.

List on 14-04-2015.

JUDGE **CHIEF JUSTICE**

S.Rynjah

WA. No. 12 of 2015

BEFORE
THE HON'BLE MR. JUSTICE UMA NATH SINGH,
CHIEF JUSTICE
THE HON'BLE MR JUSTICE S.R.SEN

09-04-2015

Mr. R.Deb Nath, learned Advocate, appears for appellant-Union of India.

Mr. P.Nongbri, learned Advocate, represents respondent Nos. 2 and 3.

Learned counsel for respondents states that he has received instructions to appear on behalf of respondent Nos. 2 and 3 only. As all the respondents are serving in Assam Rifles, thus, learned counsel for Union of India may find out the status of service of notice from the Headquarters of Assam Rifles.

List on 16-04-2015.

JUDGE CHIEF JUSTICE

S.Rynjah