

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SSpecial Leave to Appeal (Crl.) No.10648/2024

(Arising out of impugned final judgment and order dated 22-07-2024 in CRLMA No. 21195/2024 passed by the High Court Of Delhi At New Delhi)

SUNIL NAYAK @ FUNDI

Petitioner(s)

VERSUS

STATE (NCT OF DELHI)

Respondent(s)

(IA No. 159430/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 159429/2024 - PERMISSION TO FILE SLP WITHOUT CERTIFIED/PLAIN COPY OF IMPUGNED ORDER)

Date : 09-09-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. V. Chitambaresh, Sr. Adv.  
Mr. Yogesh Subhash Kolte, AOR

For Respondent(s) Mr. Vikramjeet Banerjee, A.S.G.  
Mr. Mukesh Kumar Maroria, AOR  
Mr. Jagdish Chandra Solanki, Adv.  
Mr. Abhishek Singh, Adv.  
Mr. P V Yogeswaran, Adv.  
Mr. Sudhir Nagar, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The Special Leave Petition challenges the order dated 22<sup>nd</sup> July, 2024 passed by the High Court which reads as thus:

"Per Court:  
The Crl.M.A. No.21195 of 2024 dismissed and issued the notice in Writ Petition No.2172 of 2024."

In the synopsis, it is stated that the petitioner who was convicted and who is undergoing life sentence filed a writ petition before the Delhi High Court seeking a writ of mandamus to consider his prayer for pre-mature release. On page 'F' of the synopsis, it is stated that in the Writ Petition (Criminal) No.21195 of 2024 notice was issued. The grievance made on page F' is that on 22<sup>nd</sup> July, 2024 though the High Court issued notice on the writ petition, it did not consider the application for grant of stay. However, the order reproduced on page '2' shows that the application was dismissed. The matter does not rest here. In the grounds, it is pleaded that the High Court order issuing notice without considering the application for stay constitutes arbitrary exercise of judicial discretion.

Now a copy of impugned order is produced on record along with separate application which records following order:

"3. The application has been moved on behalf of the petitioner for suspension/stay of the sentence of life imprisonment passed by learned Special Judge (NDPS), Tis Hazari Courts.

4. After some arguments, learned counsel for the petitioner seeks leave to withdraw the present application.

5. The application is dismissed as withdrawn."

Thus, not only the application for interim relief was heard by the High Court but after some arguments, the Advocate for the petitioner withdrew the application. The writ petition projects a completely false case. The first case projected that the prayer for interim relief was not considered. Page '2' indicates that the

prayer for interim relief was dismissed. However, the fact that the application for interim relief after arguing the same for some time was withdrawn by the petitioner has been suppressed by the petitioner. On account of suppression of facts, we dismiss this Special Leave Petition. We direct the petitioner to pay costs quantified at Rs.10,000/- to the Delhi State Legal Services Authority within a period of one month from today.

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)  
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)  
COURT MASTER (NSH)