

ITEM NO.13

COURT NO.4
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION II-B

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 5373-5375/2020

(Arising out of impugned final judgment and order dated 27-10-2020 in WPCRL No. 1182/2020 27-10-2020 in WPCRL No. 1187/2020 27-10-2020 in WPCRL No. 1285/2020 passed by the High Court Of Uttarakhand At Nainital)

STATE OF UTTARAKHAND

Petitioner(s)

VERSUS

UMESH KUMAR SHARMA & ORS.

Respondent(s)

IA No. 159155/2022 - APPLICATION FOR PERMISSION
 IA No. 159157/2022 - EXEMPTION FROM FILING O.T.)

WITH

SLP(Cr1) No. 6054-6056/2020 (II-B)
 (FOR ADMISSION and I.R. and IA No.123205/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.123206/2020-EXEMPTION FROM FILING O.T.)

Date : 19-04-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Parties:

Mr. Sidharth Luthra, Sr. Adv.
 Mr. S. Niranjana Reddy, Sr. Adv.
 Ms. Supriya Juneja, AOR
 Ms. A. Sahitya Veena, Adv.
 Ms. Akhila Palem Ramireddy, Adv.
 Mr. Ayush Kaushik, Adv.
 Mr. Kaustubh Seth, Adv.

Mr. Balbir Singh Sr. Adv./A.S.G.
 Dr. Abhishek Atrey, AOR

Ms. Namita Choudhary, AOR
 Ms. Srishti Choudhary, Adv.

Mr. Kapil Sibal, Sr. Adv.
 Mr. Arunabh Chowdhury, Sr. Adv.
 Mr. Jayant Mohan, AOR
 Mr. Ankur Chawla, Adv.
 Mr. Karan Kumar Gogna, Adv.
 Mr. Amir Khan, Adv.
 Mr. Akshay Sahni, Adv.

Mr. Pavan Kumar, AOR

Mr. Ajay Vohra, Sr. Adv.
 Mr. Anup Kumar, AOR

Ms. Neha Jaiswal, Adv.
Mr. Shivam Kumar, Adv.
Ms. Shruti Singh, Adv.
Mr. Shubham Rajhans, Adv.

Ms. Pallavi Langar, AOR

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

When the matters were heard earlier, it was brought to our notice that, during the pendency of the present proceedings, the I.O. has filed a closure report. We are literally surprised and shocked that when the criminal proceedings/FIRs were quashed by the High Court, which has been challenged by the State thereafter, how there can be a closure report by the I.O. Therefore, this Court passed the following order on 28.03.2023.

"Learned counsel appearing for the State has submitted that now a closure report has been filed by the I.O., as per the communication dated 08.01.2023.

On perusal of the communication, it appears that, as the matter before this Court is pending for more than two years, the I.O. has thought it fit to close the proceedings. Apart from the fact that the aforesaid can be said to be hardly a good ground to submit the closure report, merely because the proceedings are pending before this Court which are, as such, against the order passed by the High Court quashing the FIRs cannot be a ground to submit the closure report.

Even otherwise, once the FIRs are quashed by the High Court, which are the subject-matter of the present proceedings, there is no question of thereafter submitting any closure report when the FIRs itself have been quashed. It shows the absolute non-application of mind on the part of the concerned I.O.

Therefore, the matters are required to be heard on merits.

At the request of learned counsel appearing on behalf of the original writ petitioners-accused, put up on 19.04.2023 for final disposal.

On the next date of hearing, the concerned I.O. to explain his conduct to submit the closure report in a case where the FIRs are already quashed by the High Court, which are the subject matter of proceedings pending before this Court, by remaining personally present before this Court."

It is reported that the concerned I.O. is present in the Court. An affidavit of the I.O. in compliance of the order dated 28.03.2023 has been filed. In the affidavit, it is stated that, though not required and not permissible, however as the proceedings were pending since last more than 2 years and in fact the proceedings were quashed by the High Court, the I.O. prepared the closure report and kept the same in the Police Station and was never forwarded to the learned Magistrate. It is submitted that the closure report, as such, was not on merits at all giving clean chit to the accused. It is submitted that as the proceedings were quashed by the High Court to complete the record and as per the practice prevailing in the State, the closure report was prepared and kept on the file in the P.S. without forwarding the same to the learned Magistrate.

Shri Balbir Singh, learned ASG, appearing on behalf of the State has submitted that apart from the fact that the ground on which the closure report was prepared and kept in the P.S., once the order of quashing the criminal proceedings was challenged by the State, the I.O. ought not to have even prepared the closure report. He has fairly conceded that once the criminal proceedings/FIRs are quashed, there cannot be any further closure report and and/or filing the closure report even in a case where the criminal proceedings/FIRs are quashed. The same is unknown to the procedure to be followed under the Cr.P.C. It is submitted that it was a *bona fide/inadvertent* error on the part of the I.O. even preparing the closure report and keeping it on the record of the file in the P.S. He has fairly conceded that such a closure

report even prepared and kept on the file of the record cannot be said to be a valid closure report in the eye of law and it is to be ignored for all purposes. It is reported that even in the State such practice is being followed. Recording the statement of Shri Balbir Singh, learned ASG, appearing for the State that the closure report by the I.O. prepared and kept on record of the file is to be ignored for all purposes and cannot be said to be a closure report in accordance with Section 173 of the Cr.P.C. and cannot be said to be a valid report in the eye of law and is to be ignored for all purposes, we observe accordingly and further observe that the matters are required to be heard in accordance with law ignoring the closure report prepared by the I.O. and kept on the record of the P.S. We also further observe that if such a practice is being followed by the State, the same should be stopped immediately. We observe that in case of quashing of the criminal proceedings/FIRs by the High Court, there is no question of preparing/filing a closure report under Section 173 Cr.P.C.

The present order be sent to the Chief Secretary and the Secretary (Home Department) of the State and the Director General of Police of the State to circulate it to all the Police Stations in the State so that such practice is discontinued.

List on 26.04.2023.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR