

ITEM NO.22 Court 3 (Video Conferencing) SECTION II

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 S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 762/2020

(Arising out of impugned final judgment and order dated 13-01-2020
in MB No. 220/2020 passed by the High Court Of Judicature At
Allahabad, Lucknow Bench)

HUKUM CHAND GARG & ANR. Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS. Respondent(s)

IA No. 16470/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 16469/2020 - EXEMPTION FROM FILING O.T.)

Date : 07-02-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. K.V. Viswanathan, Sr. Adv.
Mr. Prithu Garg, AOR
Mr. Yudhveer Singh Rawal, Adv.
Mr. Amartya Sharan, Adv.

For Respondent(s) Mr. Tushar Mehta, Ld. SG
Mr. Suryaprakash V. Raju, Ld. ASG
Mr. Zoheb Hussain, Adv.
Mr. Kanu Agrawal, Adv.
Ms. Sairica Raju, Adv.
Mr. Guntur Pramod Kumar, Adv.
Mr. A. K. Sharma, AOR
Mr. M.K. Maroria, AOR

Mr. Ratnakar Dash, Sr. Adv.
Mr. Amor Chitravanshi, Adv.
Mr. Adarsh Upadhyay, AOR

UPON hearing the counsel the Court made the following

O R D E R

The petitioners had filed petition for quashing of Case Crime No. 540 of 2019 registered at P.S. Hazratganj, District Lucknow, Uttar Pradesh.

It is not in dispute that the petitioners have not been named as accused in the said crime. If the petitioners have not been named as accused in the said crime, the question of quashing of stated FIR or the case now under investigation by the Central Bureau of Investigation (CBI) arising from the said crime, does not arise as the petitioners will have no locus to seek such a relief.

In other words, the petitioners not being named as accused in the said crime or the case now registered by the CBI on the basis of the said crime, cannot be permitted to ask for quashing of the proceedings concerning some other persons (accused).

For the same reason, we do not intend to examine the correctness of the relief claimed under Section 438 of the Criminal Procedure Code at the instance of the petitioners herein.

It will be open to the petitioners to take recourse to appropriate remedy, as and when they are named by the Investigating Agency (CBI) in connection with the stated

offence now under investigation by the CBI.

The Investigating Officer of CBI shall give 48 hours' advance notice to the petitioners before proceeding against the petitioners, so as to enable the petitioners to take recourse to appropriate remedy, as may be advised.

All contentions available to both sides are left open.

We have passed this order in the peculiar facts of the present case and the response filed by the respondents in this petition.

On the earlier occasion, the Court had noticed that a lookout notice was issued against the petitioners. It is now clarified that the said lookout notice was issued by the local police (Uttar Pradesh Police) investigating the crime at that time, which notice has lapsed with the passage of time. In that sense, the writ petition(s) filed by the petitioners to challenge the said lookout notice would also not survive for consideration. That can be pointed out to the High Court where the said petition is pending.

This special leave petition is disposed of in the above terms.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)