

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).4786 OF 2024  
(ARISING OUT OF S.L.P. (CRIMINAL) NO(S).12210/2023)

RAMKUMAR GIRI

APPELLANT(S)

VERSUS

THE STATE & ANR.

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S).4787 OF 2024  
(ARISING OUT OF S.L.P. (CRIMINAL) NO(S).13206/2023)

CRIMINAL APPEAL NO(S).4788 OF 2024  
(ARISING OUT OF S.L.P. (CRIMINAL) NO(S).16489/2023)

CRIMINAL APPEAL NO(S).4789 OF 2024  
(ARISING OUT OF S.L.P. (CRIMINAL) NO(S).16490/2023)

O R D E R

1. Heard the learned counsel appearing for the parties.
2. Leave granted.
3. These Appeals arise out of a First Information Report (for short, "the FIR") being Crime No.69/2006 registered at the instance of the second respondent with Surandai Police Station, Tirunvelveli.
4. On 31<sup>st</sup> May, 2006, a final report was filed in which the Investigating Officer recorded a conclusion that the complaint filed by the second respondent shall be treated as a mistake of fact as no evidence has been found at the place of occurrence of having damaged the road by removing sand and gravel in four vehicles at the time of occurrence. The second respondent filed an application before the jurisdictional Judicial Magistrate seeking re-investigation. On 8<sup>th</sup> October, 2007, the learned Judicial

Magistrate ordered re-investigation. After re-investigation, on 18<sup>th</sup> August, 2009, the Investigating Officer filed a closure report in which he came to the same conclusion which was recorded in the first closure report.

5. In between, there were other litigations filed. On 19<sup>th</sup> September, 2017, a protest petition was filed by the second respondent before the learned Judicial Magistrate. Thus, the protest petition was filed eight years after the second closure report was filed by the Police. On the basis of the protest petition, the learned Judicial Magistrate, after recording the statement of the second respondent and other witnesses, took cognizance of the offences punishable under Sections 147, 148, 353 and 506(ii) of the Indian Penal Code, 1860.

6. What was subjected to challenge before the High Court was the order of the learned Judicial Magistrate taking cognizance.

7. After having heard the learned counsel appearing for the parties, we find that the following facts stare at the face:

- (i) The second respondent waited for eight long years to file a protest petition;
- (ii) The protest petition was filed objecting to the second closure report and both the closure reports recorded the same conclusion; and
- (iii) While filing the protest petition, the second respondent tried to implicate accused nos. 6 to 13 whose names were not found in the First Information Report.

8. The learned counsel appearing for the second respondent submitted that the delay in filing the protest petition by itself is no ground to interfere, especially when, if called upon, the second respondent could have explained the delay. His second submission is that it was not necessary for the learned Judicial Magistrate to record detailed reasons while taking cognizance as he had followed the procedure laid down in Sections 200 onwards of the Code of Criminal Procedure, 1973 and passed the order taking cognizance.

9. We may note here that in the protest petition filed on 19<sup>th</sup> September, 2017 by the second respondent, he has named accused nos.6 to 13, who are not part of the FIR. As stated earlier, the FIR is of the year 2006. Moreover, in the protest petition, no specific overt acts have been attributed to the present appellants who were not shown as accused in the FIR.

10. Filing the protest petition and that also by incorporating the names of eight additional accused after a lapse of eight years from the second closure report, is itself an abuse of process of law.

11. Therefore, in our view, the High Court ought to have interfered and quashed the order of taking cognizance as far as the present appellants are concerned.

12. Accordingly, the Appeals succeed. We set aside the impugned judgment. The order dated 1<sup>st</sup> March, 2019 taking cognizance of the case in PCR No.8/2019 by the learned Judicial Magistrate as against the appellants is hereby quashed.

**13. We make it clear that the observations made in this order will have no bearing on the pending civil disputes between the parties.**

**14. The Appeals are, accordingly, allowed on the above terms.**

.....J.  
(ABHAY S. OKA)

.....J.  
(AUGUSTINE GEORGE MASIH)

**NEW DELHI;**  
**NOVEMBER 26, 2024.**

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

**PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S). 12210/2023**

[Arising out of impugned final judgment and order dated 10-07-2023 in CRL(P) No. 18189/2019 passed by the High Court of Judicature at Madras at Madurai]

**RAMKUMAR GIRI**

**Petitioner(s)**

**VERSUS**

**THE STATE & ANR.**

**Respondent(s)**

**WITH**

**SLP(Crl) No. 13206/2023 (II-C)**

**SLP(Crl) No. 16489/2023 (II-C)**

**SLP(Crl) No. 16490/2023 (II-C)**

**Date : 26-11-2024 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. Jayanth Muth Raj, Sr. Adv.**

**Mr. Gowtham Kumar, Adv.**

**Mr. Vinodh Kanna B., AOR**

**Mr. Pradeep Kumar Kar, Adv.**

**Mr. S. Nandakumar, Sr. Adv.**

**Mr. Praveen K. Joy, Adv.**

**Ms. Deepika Nandakumar, Adv.**

**Ardra M., Adv.**

**Mr. Naresh Kumar, AOR**

**Mr. Aakash Elango, Adv.**

**For Respondent(s) Mr. V. Krishnamurthy, Sr. A.A.G.**

**Mr. Sabarish Subramanian, AOR**

**Mr. C. Kranthi Kumar, Adv.**

**Mr. Vishnu Unnikrishnan, Adv.**

**Ms. Azka Sheikh, Adv.**

**Mr. Danish Saifi, Adv.**

**Mr. Anupam Kishore Sinha, AOR**

**Mr. Pradeep K. Tiwari, Adv.**

**Mr. Apoorv Jha, Adv.**

**Sahitya Srivastava, Adv.  
Dr. S.K. Saamy, Adv.**

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

**Leave granted.**

**The Appeals are allowed in terms of the signed order. The operative portion of the order reads thus:**

**"12. Accordingly, the Appeals succeed. We set aside the impugned judgment. The order dated 1<sup>st</sup> March, 2019 taking cognizance of the case in PCR No.8/2019 by the learned Judicial Magistrate as against the appellants is hereby quashed.**

**13. We make it clear that the observations made in this order will have no bearing on the pending civil disputes between the parties.**

**14. The Appeals are, accordingly, allowed on the above terms."**

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

**(ASHISH KONDE)  
COURT MASTER (SH)**

**(AVGV RAMU)  
COURT MASTER (NSH)**

**[THE SIGNED ORDER IS PLACED ON THE FILE]**