

A

C.B.I.

v.

PRATAP CHANDRA REDDY
(Criminal Appeal No. 601 of 2009)

B

DECEMBER 11, 2018

[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

Foreign Contribution (Regulation) Act 1976 – Applicability of – Held: In the instant case, the matter was pending in the trial Court in relation to certain offences alleged to have been committed by the respondent, which were punishable under the Penal Code, 1860 and FCRA – Insofar as applicability of the provisions of the FCRA were concerned, the same could be decided properly only after the evidence is adduced by the prosecution and the material is brought on record by means of evidence against the appellant in the case – It is not appropriate to examine the issue at this stage in these proceedings – The parties can raise this plea of applicability of FCRA only after the prosecution adduces the evidence on merits – Trial Court to records its findings at that stage in accordance with law – Penal Code, 1860.

C

D

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
E No. 601 of 2009.

From the final Judgment and Order dated 04.10.2006 of the High Court of Delhi at New Delhi in Criminal Revision Petition No.115 of 1999.

Rajiv Nanda, Ms. Suhasini Sen (for Arvind Kumar Sharma), Advs.
F for the Appellant.

Sidharth Luthra, Sr. Adv., Ashok Arora, Dr. Lalit Bhasin, Ms. Nina Gupta, Dhawal Jain, Ms. Palak Chadha, P.V. Yogeswaran, Advs. for the Respondent.

The Judgment of the Court was delivered by

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ABHAY MANOHAR SAPRE, J.

1. This appeal is filed against the final judgment and order dated 04.10.2006 passed by the High Court of Delhi at New Delhi in Criminal Revision Petition No.115 of 1999 whereby the High Court allowed the revision petition filed by the respondent herein.

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2. By order dated 26.03.2007, this Court issued notice limited to the question on the correctness of the High Court's order so far as it relates to the applicability of Foreign Contribution (Regulation) Act 1976 (hereinafter referred to as the "FCRA").

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3. We heard the learned counsel for the parties and also perused the written submissions filed by the respondent.

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4. It is not in dispute that the matter is *sub judice* and pending in the Court of Chief Metropolitan Magistrate, Delhi in a case titled **CBI vs. Nemi Chand Jain and others** in relation to certain offences alleged to have been committed by the respondent, which are punishable under the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and FCRA.

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5. In our view, the issue with regard to the applicability of the provisions of the FCRA to the case at hand can be decided more properly only after the evidence is adduced by the prosecution and the material, if any, is brought on record by means of evidence against the appellant in the case.

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6. At the initial stage of the proceedings in this case, it does not appear appropriate or possible to probe this issue and decide it on merits one way or the other for want of adequate material. It is for this reason, we decline to examine the issue at this stage in these proceedings and leave the parties to raise this plea only after the prosecution adduces the evidence on merits. The Trial Court will then record its finding at that stage in accordance with law while disposing of the case.

E

7. Since the trial is pending for quite a long time, we direct the concerned Magistrate to proceed with the matter and dispose of the same in accordance with law within a period of one year from the date of this order without being influenced by any of the observations of the High Court made in the impugned order and in this order. In fact, we refrain ourselves from recording any finding on various submissions urged by the learned counsel for the respondent in his written submissions in the light of what we have observed *supra*.

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8. With these observations, the appeal stands disposed of.

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