

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 215 OF 2014

[Arising out of SLP (Crl.) No.3399 of 2012]

Indo Asian Ltd.

.. Appellant

Versus

State of Uttrakhand & Anr.

.. Respondents

J U D G M E N T

K. S. RADHAKRISHNAN, J.

1. Leave granted.

2. The High Court while exercising its powers conferred under Section 482 of the Code of Criminal Procedure quashed proceedings of Criminal Case No.1004 of 2010 arising out of Crime No.24 of 2010, holding that no offence has been made out under Section 406 IPC.

3. The Appellant is a company engaged in the manufacture of copper wire having its factory at SIDCUL, Haridwar. The accused-Respondent No.2 is running his business in the name of his sole proprietorship concern by name M/s. Dynasty India and also in the name of his company named M/s. Dynasty India Private Limited. On 25.8.2008, a contract was entered into by the accused-Respondent No.2 whereby it was to process the copper rods to be supplied by the Appellant Company into copper wire.

4. The Appellant submitted that during the period between 4.7.2008 to November, 2008, the Appellant entrusted in total copper rods weighing 39,689 kgs. for processing and out of that the accused returned only 33,440.10 kgs. of copper wire to the Appellant Company. Copper weighing 26.87 kgs. was used in processing, and as such, the copper rods weighing 6,222.04 kgs. remained with the accused-Respondent No.2 which, according to the Appellant, was misappropriated and converted to his own use and the said copper was never returned to the

Appellant. Few correspondences were exchanged between the parties, including few meetings as well. According to the Appellant, even though the accused had undertaken to return the copper rods, the same was not done. Consequently, the Appellant preferred a complaint which was registered as Crime Case No.24 of 2010 registered at PS Rampur, Haridwar under Section 406 IPC.

5. The investigating officer initially filed a report on 30.4.2010. Again there was further investigation under Section 173(8) of the Criminal Procedure Code and, after due investigation, a charge-sheet was filed on 13.12.2010 against the accused under Section 306 Cr.P.C. Respondent then preferred Writ Petition No.224 of 2010 before the High Court for quashing the FIR and not to arrest him. While the Writ Petition was pending, the Additional Chief Judicial Magistrate took cognizance of the case vide his order dated 23.12.2010, and issued summons. Those proceedings were challenged before the High Court and, as already stated, the

High Court quashed those proceedings, against which this appeal has been preferred.

6. We have gone through the FIR as well as various invoices produced before us. On going through the allegations raised in the FIR as well as the documents, we are of the view that the High Court, at the threshold, should not have quashed the complaint and the summons issued by the Criminal Court. In the circumstances, we are inclined to allow this appeal and set aside the order of the High Court and leave it to the Criminal Court to proceed with the case in accordance with law. We make it clear that we have not expressed any opinion on the merits of the case and leave it entirely for the Criminal Court to decide the case on the basis of the evidence adduced by the parties. Ordered accordingly.

.....J.
(K. S. Radhakrishnan)

.....J.

(Vikramajit Sen)

New Delhi,
January 21, 2014.

SUPREME COURT OF INDIA



JUDGMENT