

ITEM NO.1501  
(For Orders)

COURT NO.13

SECTION II-C

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

Petition for Special Leave to Appeal (Cr1.) No.520/2021

[Arising out of impugned final judgment and order dated 05-01-2021 in CRLP No. 9361/2016 passed by the High Court of Karnataka at Bengaluru]

B.S YEDDIYURAPPA

Petitioner(s)

VERSUS

A ALAM PASHA & ORS.

Respondent(s)

[ HEARD BY : HON. J.B. PARDIWALA AND HON. MANOJ MISRA, JJ. ]  
(IA No. 13491/2021 - INTERVENTION APPLICATION & IA No. 13494/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH

SLP(Cr1) No. 758/2021 (II-C)  
(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 10975/2021)

SLP(Cr1) No. 2318/2021 (II-C)  
(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 37664/2021 & FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 37670/2021)

SLP(Cr1) No. 2753/2021 (II-C)  
(FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 46543/2021, FOR EXEMPTION FROM FILING O.T. ON IA 46546/2021 & FOR APPLICATION FOR MODIFICATION OF PARTY DETAILS / CHALLENGED JUDGMENT DETAILS ON IA 35851/2023)

SLP(Cr1) No. 3372/2021 (II-C)  
(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 56807/2021 & FOR EXEMPTION FROM FILING O.T. ON IA 56808/2021)

SLP(Cr1) No. 9361/2021 (II-C)  
(IA No. 51957/2022 - APPROPRIATE ORDERS/DIRECTIONS & IA No.157936/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(Cr1) No. 8675/2022 (II-C)  
(IA No. 138597/2022 - EXEMPTION FROM FILING O.T. & IA No. 138595/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(Cr1) No. 5333-5347/2016 (II-C)  
FOR [PERMISSION TO FILE ANNEXURES] ON IA 11524/2016 and IA No.119882/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 21-04-2025 These matters were called on for pronouncement of order today.

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1. Hon'ble Mr. Justice J.B. Pardiwala pronounced the Order of the Bench comprising His Lordship and Hon'ble Mr. Justice Manoj Misra.
2. However, while preparing the judgment, on the issue relating to applicability of Aiyappa's decision we came across an order of this court dated 16.04.2024 passed by a coordinate bench of this Court in SLP (Crl) Nos.3567-3568/2017 "*Shamin Khan vs. Debashish Chakrabarty & Ors.*", which reads as under:

"Heard learned counsel on both sides. Upon hearing the learned counsel and on perusing the materials on record, we find that the question which was already referred to a larger Bench, as per the judgment in "Manju Surana vs. Sunil Arora & Ors." (2018) 5 SCC 557, is involved in this case as well.

The question referred under the judgment in Manju Surana's case (supra) is whether, while directing an investigation in terms of provisions under Section 156(3) of the CrPC, the Magistrate is applying his mind. In other words, whether the Magistrate takes 'cognizance at that stage'.

We are of the considered view that scanning of the provisions under Sections 156(3), 173(2), 190, 200, 202, 203 and 204 of the CrPC would, prima facie, reveal that while directing for an investigation and forwarding the complaint therefor, the Magistrate is not actually taking cognizance. However, since the said question is referred as per the above judgment, judicial discipline and propriety dissuade us from proceeding further with the case and hence, we order to tag the captioned matters also along with the matter(s) already referred. Ordered accordingly.

The judgment in Manju Surana (supra) would reveal that the matters were referred to larger Bench on 27.3.2018. Considering the fact that question involved is a matter of relevance and such issues arises frequently for consideration before Courts, we are of the considered view that an earlier decision on the question referred is solicited.

Registry is directed to place these matters before the Hon'ble the Chief Justice of India for appropriate orders."

(Emphasis supplied)

3. As for maintaining judicial discipline a coordinate bench of this Court has refrained from proceeding further in deciding the underlying issue<sup>1</sup>, which is under reference to a larger bench, we deem it appropriate to tag these petitions with the referred matter Manju Surana vs. Sunil Arora & Ors." (supra).

4. The registry is directed to place these matters before the Hon'ble Chief Justice of India for appropriate orders.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)  
COURT MASTER (NSH)

(Signed Order is placed on the file)

<sup>1</sup> Whether the bar of Section 19 of the PC Act would be applicable on exercise of power under Section 156 (3) of CrPC.