

Petition(s) for Special Leave to Appeal (Crl) No(s).8408/2008

(From the judgement and order dated 12/11/2008 in GA No. 2240/2007
in CS No. 22/2007 of The HIGH COURT OF CALCUTTA)

SHARAD PAWAR

Petitioner(s)

VERSUS

JAGMOHAN DALMIYA & ORS. Respondent(s)
(With appln(s) for stay and office report)(for final disposal)

WITH

SLP(Crl) NO. 8417 of 2008

SLP(Crl) NO. 8527 of 2008

SLP(Crl) NO. 8528 of 2008

SLP(Crl) NO. 8542 of 2008

SLP(Crl) NO. 8544 of 2008

(With appln(s) for stay and office report)(for final disposal)

Date: 17/03/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK VERMA
HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioner(s) Mr. G.E.Vahanvati, Sr. Adv.
In SLP 8408/2008 Ms. Ruby Singh Ahuja, Adv.
Ms. Ruchira Gupta, Adv.
Mr. Abeer Kumar, Adv.
Mr. Vidant Varma, Adv.
Mr. Raghu Raman, Adv.
Ms. Akhila Laushik, Adv.for
Mrs Manik Karanjawala,Adv.

For Petitioner(s) Mr. U.U. Lalit, Sr. Adv.
In SLP 8417/2008 Ms. Ruby Singh Ahuja, Adv.
Ms. Ruchira Gupta, Adv.
Mr. Raghu Raman, Adv.
Ms. Akhila Laushik, Adv.for
Mrs Manik Karanjawala,Adv.

For Petitioner(s) Mr. C.A. Sundaram, Sr. Adv.
In SLP 8527/2008 Ms. Ruby Singh Ahuja, Adv.
Ms. Ruchira Gupta, Adv.
Mr. Abeer Kumar, Adv.
Mr. Zafar Inayat, Adv.
Ms. Rohini Musa, Adv.
Mr. Abhishek Gupta, Adv.for
Mrs Manik Karanjawala,Adv.

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For Petitioner(s) Mr. Siddharth Luthra, Sr. Adv.
In SLP 8528/2008 Ms. Ruby Singh Ahuja, Adv.
Ms. Ruchira Gupta, Adv.
Mr. Anurag Ahluwalia for
Mrs Manik Karanjawala,Adv.

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
In SLP 8542/2008 Ms. Ruby Singh Ahuja, Adv.
Mr. Abeer Kumar, Adv.for
Mrs Manik Karanjawala,Adv.

For Petitioner(s) Dr. A.M.Singhvi, Sr. Adv.
In SLP 8544/2008 Ms. Ruby Singh Ahuja, Adv.
Ms. Ruchira Gupta, Adv.
Mr. Abeer Kumar, Adv.
Mr. Raghu Raman, Adv.
Ms. Akhila Laushik, Adv.for
Mrs Manik Karanjawala,Adv.

For Respondent(s) Mr. Altaf Ahmad, Sr. Adv.
Dr.Rajeev Dhawan, Sr. Adv.
Mr. Sushil Kumar Jain,Adv.
Mr. Pradeep Agarwal, Adv.
Mr. Puneet Jain, Adv.
Ms. Eshita Baruah, Adv.

Mrs. Nandini Gore ,Adv

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

Leave granted.

The Appeals are allowed in terms of the signed
order.

(Parveen Kr. Chawla)
Court Master

(Veera Verma)
Court Master

[Signed Order is placed on the File]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.540 OF 2010
Arising from SLP(Criminal) No.8408 of 2008)

Sharad Pawar

..Appellant

versus

Jagmohan Dalmiya & Others

..Respondents

WITH

CRIMINAL APPEAL NO.541 OF 2010
(Arising from SLP(Criminal) No.8417 of 2008)
CRIMINAL APPEAL NO.542 OF 2010
(Arising from SLP(Criminal) No.8527 of 2008)
CRIMINAL APPEAL NO.543 OF 2010
(Arising from SLP(Criminal) No.8528 of 2008)
CRIMINAL APPEAL NO.544 OF 2010
(Arising from SLP(Criminal) No.8542 of 2008)
CRIMINAL APPEAL NO.545 OF 2010
(Arising from SLP(Criminal) No.8544 of 2008)

O R D E R

Leave granted.

These Appeals have been filed against the impunged

order of the learned Single Judge of the High Court of Calcutta dated 12th November, 2008 passed in an application filed by the plaintiff/respondent No.1 under Section 340 Cr.P.C. in a pending suit bearing Civil Suit No.22 of 2007.

Brief facts of the case are that the first respondent filed an original Suit bearing Civil Suit No.22 of 2007, before the High Court of Calcutta. The challenge in the suit was expulsion of the first respondent from the post of President of The Board of Control for Cricket in India (for short 'BCCI'). The plaintiff-first respondent had filed an injunction application, registered as G.A.

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No.1545 of 2007 in C.S. No.22 of 2007. The said injunction application was heard at length and was decided on 20th July, 2007 by the learned Single Judge granting interim injunction in favour of the plaintiff/respondent No.1 in terms of prayer (a) and © of the injunction application till the disposal of the suit.

Prior to the passing of the order dated 20th July, 2007 in the application for injunction by the learned Single Judge, yet another application under Section 340 of the Code of Criminal Procedure, 1973 was filed by respondent No.1 in the said suit, registered as GA No.2240 of 2007. In the application under Section 340, Cr.P.C., it was alleged that the affidavit filed by one Ratnakar Shetty, official of BCCI interfered with the administration of justice having committed the offences punishable under Sections 199 and 200, IPC.

This application was considered by another learned Single Judge of the High Court of Calcutta and impugned order was passed, without giving proper and adequate reasons and without affording an opportunity of being heard to the defendants. By the impugned order, the learned Single Judge has directed that an enquiry be made against defendants Nos. 1 to 6 in the suit. Before passing of the

impugned order in the application under Section 340, Cr.P.C., the learned Single Judge did not conduct a preliminary enquiry as contemplated under Section 340, Cr.P.C. The said order is challenged before us in these appeals by the defendants in the suit.

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Having heard learned senior counsel for both sides and after perusal of record, we are of the considered view that before giving a direction to file complaint against defendants Nos. 1 to 6, it was necessary for the learned Single Judge to conduct a preliminary enquiry as contemplated under Section 340, Cr.P.C. and also to afford an opportunity of being heard to the defendants, which was admittedly not done.

We, therefore, in the interest of justice, allow these appeals, set aside the impugned order of the High Court passed in the application filed by the plaintiff-1st respondent under Section 340, Cr.P.C. and remit the matter to the learned Single Judge to decide the application under Section 340 Cr.P.c. afresh in accordance with law, and after affording reasonable opportunity of being heard to the defendants, against whom the learned Single Judge ordered enquiry.

All contentions are left open to the parties to be raised before the learned Single Judge.

The Appeals are allowed accordingly.

.....CJI
[K.G. BALAKRISHNAN]

.....J.
[DEEPAK VERMA]

NEW DELHI;J.
MARCH 17, 2010 [DR.B.S.CHAUHAN]