

(1999) 09 SC CK 0119

In the Supreme Court Of India

Case No : Criminal Appeal No. 948 Of 19991

Bombay Offshore Services Ltd. and Others

APPELLANT

Vs

Shankar Narayan and Another

RESPONDENT

Date of Decision : 16-09-1999

Acts Referred:

Citation : (2000) 10 SCC 356

Hon'ble Judges : N. Santosh Hedge, J;M. Srinivasan, J;G. B. Pattanaik, J

Bench : Full Bench

Final Decision : Allowed

Judgement

G.B. Pattanaik, J.—Leave granted.

2. A proceeding under Section 138 of the Negotiable Instruments Act had been initiated by Bank of Credit & Commerce International (Overseas) Ltd. (BCCI) to whom the appellants had issued three cheques which, on being presented, were dishonoured. In the said proceedings cognizance had been taken. Subsequently, BCCI was wound up and State Bank of India Commercial International Bank Ltd. (SBICIB) was the successor of the said BCCI.

3. SBICIB pursued the criminal prosecution and filed a petition before the Magistrate to allow SBICIB to pursue the litigation. The learned Magistrate allowed the said prayer. The appellant-accused moved the High Court against the said order and their application having been rejected, they approached this Court.

4. Dr. Singhvi, learned Senior Counsel appearing for the appellants vehemently argued that SBICIB not being the holder in due course of the cheques in question, the criminal proceedings could not have been continued at their behest and the Magistrate as well as the High Court have committed error in allowing it to pursue the litigation.

5. Having heard Dr. Singhvi and the learned counsel for the respondents and having gone through the impugned judgment of the High Court which relies upon

other judgments of the Karnataka High Court and the Kerala High Court, and the Karnataka High Court in its turn relies upon the decisions of the Calcutta and the Andhra Pradesh High Courts as well as some provisions of CrPC, we see no infirmity with the same so as to be interfered with by this Court. There is no dispute that the cheques had been given to BCCI and the same on being dishonoured the criminal complaint had been lodged by BCCI and the Magistrate had already taken cognizance of the same. The successor SBICIB would be fully entitled to pursue the said criminal litigation particularly in view of the terms of the agreement between BCCI and SBICIB.

6. The appeal accordingly fails and is dismissed.