

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.959 of 2017

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

The Writ Appeal is taken up for consideration for admission and is disposed of with the consent of the parties.

2. The Writ Appeal is by the third respondent in W.P.No.39553 of 2016. It is the admitted situation that she was not issued with any notice while considering the Writ Petition and issuing the order that is impugned in this Writ Appeal. She is allegedly the victim of certain acts or omissions attributed to the writ petitioners for which they are facing complaint for offences punishable under the Indian Penal Code and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It is not in dispute that those provisions taken together create an embargo against grant of anticipatory bail.

3. Notwithstanding the fact that the appellant/third respondent herein was not issued with any notice, the fact of the matter remains that the impugned order issued by the learned single Judge also contains the clause of issuance of an order in the form of anticipatory bail order.

4. However, we are not venturing to discuss or decide the issues touching the merits of the Writ Appeal in as much as the undisputed situation is that the appellant/third respondent, who was a necessary party to the Writ Petition, was not issued

with notice, though she was made a party thereto. For this reason alone, the impugned order has to go paving way for reconsideration of the Writ Petition.

5. In the result, this Writ Appeal is allowed vacating the impugned order issued by the learned single Judge. Resultantly, W.P.No.39553 of 2016 will stand remitted to be listed before the learned single Judge as per roster for consideration *de novo*. The appellant/third respondent will be at liberty to enter appearance in those proceedings without awaiting any further notice from that end.

The miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

29.08.2018

vs