
(2010) 06 UK CK 0110
In the Uttarakhand High Court

Ajay Jalan

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 16-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 420
Prevention of Corruption Act, 1988 — Section 13

Citation : (2010) 06 UK CK 0110

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—By means of this petition, moved u/s 482 of Code of Criminal procedure, 1973, the petitioner has sought quashing of the proceedings of Criminal Case No. 03 of 2003 C.B.I v. Chandra Datt and Ors. relating to offence punishable u/s 420 I.P.C., and u/s 13 of Prevention of Corruption Act, 1988, pending in the court of Special Judge, Anti Corruption (C.B.I), Dehradun.

2. Heard learned Counsel for the parties and perused the papers on record.

3. Brief facts of the case are that there was a requirement of purchasing eight Vertical Storage and Retrieval Systems for Oil and Natural Gas Commission, Dehradun (for short O.N.G.C). The allegation against the petitioner is that in connivance with certain officers namely Kuldeep Chandra, Chandra Datt, Section Chatopadhyay, B.C. Padhi, S.K. Garg and Vimal Ahuja of the Corporation, a purchase order was given to the petitioner who quoted Rs. 16,35,000/- per carousel exclusive of CST (for a total amount of Rs 1,40,47,920/-) and there by the ONGC was got cheated of Rs. 69 lakhs. The Central Bureau of Investigation (for short C.B.I) who registered the First Information Report on 11.11.2002, after investigation submitted charge sheet against the afore said officers of ONGC and the petitioner Ajay Jalan, relating to offences punishable u/s 120B, 420 I.P.C and one punishable u/s 13 of Prevention of Corruption Act, 1988.

Hence this petition.

4. Learned Counsel for the petitioner submitted that it is a case of civil liability. It is further pleaded that there is an arbitration clause included in the agreement between the ONGC and the petitioner, and dispute is already referred to arbitration. It is argued that there is no criminal liability on the part of the petitioner and the prosecution as against him is liable to be quashed.

5. On the other hand learned Counsel for the C.B.I argued that in addition to the civil liability, it is a case, which attracted criminal liability. It is further pleaded that the petitioner conspired with the officers of ONGC in getting the supply order and there by the ONGC has been cheated of Rs 69 lakhs. It is pointed out on behalf of the C.B.I that quotation was invited only from the petitioners and no other firm was made to submit their quotations. It is further argued on behalf of the prosecuting agency that the items which were purchased by the petitioner, who is proprietor of Kaziranga Trading Company from M/s. Vinar Systems Ltd at the cost of Rs. 9,10,000/- was purchased and supplied through the petitioners firm at the rate of Rs. 33,48,800/- per item.

6. On behalf of the petitioner attention of this Court is drawn to the case of Union of India (UOI) and Another Vs. J.S. Khanna, etc., and it is argued that merely for the reason that the quoted prices was higher, it does not attract the criminal liability.

7. have gone through the aforesaid case law. Said case pertains to emergency purchases. The Supreme Court in the case of emergency purchases has held that at emergent times it is difficult for the officers to strictly follow the rules in making the purchases as such merely for the reason that the quotation was higher, criminal liability does not get attracted. In the present case it is possible that the petitioner may or may not have the criminal intention in the transaction, but that decision could be taken by the trial court after recording the evidence. This Court on its part with half baked evidence before it can not be hold that there was no criminal conspiracy of the officers of the ONGC who are co accused with the present petitioner, in the supply made to the Corporation.

8. For the reasons as discussed above, without expressing any opinion as to final merits of the case, this Court is of the view that it is not a fit case for interference with the trial, therefore the petition u/s 482 of Cr.P.C is dismissed.