

(2011) 12 UK CK 0021

In the Uttarakhand High Court

Case No : Criminal Appeal No. 897 of 2001

Anand Singh Rawat

APPELLANT

Vs

Central Bureau of Investigation (C.B.I.)

RESPONDENT

Date of Decision : 09-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 207, 313
Penal Code, 1860 (IPC) — Section 109, 120B, 374, 420, 468
Prevention of Corruption Act, 1988 — Section 5(1)(d), 5(2)

Citation : (2012) 1 NCC 276 : (2012) 2 UC 2053

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : J.S. Virk, for the Appellant; Arvind Vashishta, for the Respondent

Final Decision : Dismissed

Judgement

Prafulla C. Pant

1. This appeal, preferred u/s 374 of Code of Criminal Procedure (for short Cr.P.C.), is directed against the judgment and order dated 17.08.2000/22.08.2000, passed by Special Judge, Anti Corruption (East), Dehradun, in CBI case no. 11 of 1987, whereby said court has convicted the accused/appellant Anand Singh Rawat, u/s 120B, 420 read with Section 109, and 468 I.P.C., and one punishable u/s 5 (1) (d) read with Section 5 (2) Prevention of Corruption Act, 1947, and sentenced him to a period of imprisonment already under gone and further directed to pay fine of Rs. 5,000/-, in default of payment of which, it was directed that the convict shall further under go rigorous imprisonment for a period of one year. Heard learned counsel for the parties and perused the lower court record.

2. Prosecution story, in brief, is that accused/appellant Anand Singh Rawat was posted in the year 1984-85, as a Village Development Officer, in the block office of Rikhnikhal, in the district of Pauri Garhwal. In the same year one N.K. Jain, (co-accused) was posted as Branch Manager of Punjab National Bank, Branch

Rikhnikhal. A scheme was floated in that year by the Government for providing loans with 50% subsidy to the persons living below the poverty line, for providing them equipments for their occupation. This scheme was known as Integrated Rural Development Programme (for short IRDP). The sanctioning authority was District Rural Development Authority (for short D.R.D.A.). The prosecution case is that accused/appellant Anand Singh Rawat, conspired with co-" accused N.K. Jain, in getting the loan sanctioned to the persons, who were not even eligible. PW-3 Anand Prakash, PW-4 Moti Ram and PW-14 Dalli Ram were the persons who got such loans on recommendation of the present accused/appellant. (Other co-accused Vinod Chand Dhyani and one Chandan Singh Negi also committed similar acts). Documents and the certificates were forged and the loan was shown disbursed. But actually PW-3 Anand Prakash, who was sanctioned to get loan of Rs. 5,400/- was given only Rs. 1500/-, PW-4 Moti Ram, who was sanctioned the loan of Rs. 5000/- was given one Rs. 600/- and PW-14 Dalli Ram, who was sanctioned the loan of Rs. 5000/- was given only Rs. 800/- by the bank. The agreement was investigated by Central Bureau of Investigation (for short C.B.I.), after registering the First Information Report No. RC-36/86-DAD on 28.11.1986. After investigation charge sheet was filed against the accused persons including the present appellant along with necessary sanction (Ex. A 198).

3. After giving necessary copies, as required u/s 207 Cr.P.C. on 12.05.1988, the trial court framed charge of offences punishable u/s 120B, 420 read with 109, and 468 I.P.C. and, one punishable u/s 5 (1) (d) read with Section 5(2) of Prevention of Corruption Act, 1947, to which the accused/appellant pleaded not guilty and claimed to be tried. On this prosecution got examined PW-1 Dev Singh, PW-2 Ghananand, PW-3 Anand Prakash, PW-4 Moti Ram, PW-5 Bacchi Ram, PW-6 Ramu Das, PW-7 Bache Singh, PW-8 Ajit Singh, PW-9 Om Prakash, PW-10 Bheem Singh, PW-11 S.S. Rawat, PW-12 Shyam Lal, PW-13 Mehtab PW-14 Dalli Ram, PW-15 Baijnath, PW-16 S.N. Mehrotra, PW-17 Om Prakash Sharma, PW-18 Raman Tyagi, PW-19 M.M. Bahal, PW-20 Har Bansh Singh Tuteja(handwriting expert) and PW-21 Govind Singh Rawat.

4. Oral and documentary evidence was put to the accused u/s 313 of Cr.P.C. in reply to which, the present appellant admitted that he was posted as Village Development Officer, in Rikhnikhal. He further admitted that he recommended the case of PW-3 Anand Prakash, PW-4 Moti Ram and PW-14 Dalli Ram for sanctioning of loan under I.R.D.P. Scheme. However, he denied having conspired with co-accused N.K. Jain in getting the loans sanctioned by forging the papers and giving partial amount disbursed. No defence evidence was adduced on behalf on Anand Singh Rawat, though one DW-1 Anil Kumar Gupta was got examined by another co-accused. The trial court after hearing the parties found accused/appellant Anand Singh Rawat, co-accused N.K. Jain and Vinod Kumar Dhyani guilty of charges framed against them, and sentenced to imprisonment, they have already undergone and further Anand Singh Rawat and N.K. Jain were directed to pay fine of Rs. 5,000/- and Vinod Kumar Dhyani was directed to pay a

fine of Rs. 10,000/-. Co-accused Chandan Singh Negi was acquitted by the trial court. Aggrieved by said order dated 17.08.2000/22.08.2000, passed by Special Judge, Anti Corruption (East), Dehradun, in C.B.I., case No. 11 of 1987, this appeal was filed by the convict Anand Singh Rawat before the Allahabad High Court from where appeal is transferred u/s 35 U.P. Reorganization Act, 2000 for its disposal.

5. Before further discussion, it is pertinent to mention here that accused/appellant Anand Singh Rawat, in his reply u/s 313 of Cr.P.C., has himself admitted that he was Village Development Officer, in Rikhnikhhal, in the year 1984-85. He has further admitted that under I.R.D.P. Scheme, the persons below poverty line, having income of less than Rs. 3500/- per year, were to be sanctioned loan through the bank with 50% subsidy. Accused/appellant Anand Singh Rawat, further admitted that he did recommend cases of Dalli Ram (PW-14), Moti Ram (PW-4) and Anand Prakash (PW-3). Now the question is whether accused/appellant had conspired with co-accused N.K. Jain, the then Branch Manager of Punjab National Bank, Branch Rikhnikhhal, in getting the papers forged for sanctioning of the loan to ineligible persons, and in distributing lesser amount than that was sanctioned.

6. PW-3 Anand Prakash has stated on oath that he was taken by accused Anand Singh Rawat to the co-accused N.K. Jain, the then Branch Manager of Punjab National Bank, who got signed several papers from him. The witness has further told that he was paid only Rs. 1500/- The witness further states that he did not utilize any amount for purchasing any equipment of carpentry for his occupation.

7. PW-4 Moti Ram has also given similar statement and stated that it was accused Anand Singh Rawat, who told him that he had acquaintance with the Bank Manager and would get him loan of Rs. 5000/- sanctioned. The witness further narrates that he was taken to Branch Manager (N.K. Jain) who got several papers signed. But an amount of only Rs. 6000/- was paid to him. The witness further told that he did not purchase any equipments of carpentry with the loan amount for his occupation.

8. PW-14 Dalli Ram like the other two above witnesses has adduced evidence in support of the prosecution that he was told by the accused Anand Singh Rawat that he would be paid Rs. 3000/- as loan amount from the Punjab National Bank, Rikhnikhhal. The witness further told that he was taken by accused Anand Singh Rawat to N.K. Jain, Branch Manager, Punjab National Bank, where he was made to sign several papers and paid Rs. 800/-only. This witness has further stated that there was no establishment known as "M/s Himalayan Hardware Stores" in Rikhnikhhal, nor he purchased any items from the said shop, out of the sum paid to him. (It has come in the statement of other witnesses that fifty percent of loan was shown paid to "Himalayan Hardware Stores", Rikhnikhhal, for purchase of equipments made by the borrower).

9. From the statements of above three witnesses, read with admissions made by

accused, it is clearly established on record that the accused Anand Singh Rawat, took the above three witnesses to the Bank by promising them to get sanctioned loan under I.R.D.P. Scheme, with 50% subsidy, from the Government, but they were paid only part of the loan amount, and no agricultural/carpentry equipments were purchased by them suggesting that the payment made to the M/s Himalayan Hardware Stores, from their account was a false payment.

10. PW-11 S.S. Rawat, has proved loan sanction order Ex. A93 and related vouchers Ex. A94 and Ex. A95, which show that on the record, the loan was sanctioned for Rs. 5400/- out of which cash payment was shown made of Rs. 2650 to Anand Prakash (PW3). The witness has further proved similar documents relating to Dalli Ram and Moti Ram. Prosecution further got examined handwriting expert PW-20 Har Bansh Singh Tuteja, who has proved the questioned signatures of concerned persons and further proved his report Ex. A 193 read with Ex. A 194. Also sanction (Ex. A 198), granted by competent authority is also on the record, where by the necessary sanction for prosecution was granted against the accused/ appellant Anand Singh Rawat, who was a public servant.

11. Learned counsel for the appellant submitted that no conspiracy can be said to have been proved as against appellant as whatever documents were got signed, it was so done by co-accused N.K. Jain. However, this Court is of the view that there cannot be direct evidence of conspiracy, and it is only the circumstances brought on record which establish that the conspiracy was hatched. Had the appellant been innocent, he would not have verified that the loan amount is actually spent in purchasing the agricultural equipments from "Himalayan Hardware Stores" Rikhnikhil (a non existence entity).

12. Having considered submissions of learned counsel for the appellant and the learned counsel for the C.B.I., and after going through the lower court record, this Court finds no illegality in appreciation of evidence by the trial court, and in giving its conclusion that the charge against the accused/appellant Anand Singh Rawat is proved on the record. Since, the accused/appellant remained in jail for about ten months, the trial court rightly took view that he be sentenced to the period of imprisonment, already undergone. For the reasons as discussed above, this appeal has no force and the same is liable to be dismissed. Therefore, this appeal is dismissed. Lower court record be sent back.