

(2001) 05 SC CK 0013

In the Supreme Court Of India

Case No : Criminal Appeal No. 595 of 2001

Delhi Development Authority

APPELLANT

Vs

Rajinder Sharma

RESPONDENT

Date of Decision : 02-05-2001

Acts Referred:

Delhi Development Act, 1957 — Section 4, 14, 29(2)

Citation : (2001) 2 ACR 1601 : (2001) 5 JT 572

Hon'ble Judges : R. P. Sethi, J;K. T. Thomas, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

K.T. Thomas and R.P. Sethi, JJ.—Leave granted.

2. Appellant (Delhi Development Authority) filed a complaint against the Respondent before the Court of a Metropolitan Magistrate alleging that Respondent has committed an offence u/s 29(2) of the Delhi Development Act, 1957 on the premise that Respondent has violated Section 4 of the said Act. The complaint was taken on file by the Magistrate and process was issued to the Respondent. Thereafter the Respondent moved the High Court for quashing the criminal proceedings launched against him. By the impugned order, a learned single Judge of the High Court quashed the proceedings.

3. The reason highlighted by the learned single Judge for quashing the criminal proceedings, can be seen from the following observation made in the impugned order:

There is nothing on the record to show that the Zonal Plan produced before this Court was approved by the Central Government on or before the date of the alleged commission of the offence. That being so, the Zonal Plan produced before this Court does not help the prosecution. As noticed earlier, the Zonal Map produced before the trial court does not show that the Yamuna Vihar colony was included in the said plan and so the provisions of Section 14 of the Act are not

attracted to the facts of the present case. In this view of the matter, there is no prospect of the case ending in conviction and valuable time of the trial court would be wasted for holding the trial only for the purpose of formally complying the procedure and pronounce its conclusion on a future date.

4. Learned Counsel for the Appellant-D.D.A, Mr. Kum Kum Sen made an endeavour to show that the Zonal Plan relied on by the authority has been approved by the Central Government in accordance with law. Mr. K. N. Bhatt, learned senior counsel appearing for the Respondent contended that the Authority has not produced materials before the High Court to substantiate that contention.

5. We are of the opinion that the High Court has quashed the proceedings forestalling the complainant from producing the evidence in the trial court or substantiating their allegations in the complaint. We refrain from expressing our opinion on the rival contentions as to the merits but we are of the definite opinion that trial should proceed and reach its logical conclusion. To facilitate the aforesaid course, we set aside the impugned order.

6. If the Respondent makes an application for exempting him from personally appearing in the Court, the same shall be granted on the following conditions:

1. Counsel on behalf of the accused would be present in the Court whenever his case is taken up ;
2. The accused will not dispute his identity as the particular accused in the case ;
3. The accused will be present in the Court when such presence is imperatively needed.
7. The appeal is disposed of accordingly.