(2007) 10 AHC CK 0029

In the Allahabad High Court

Case No : Criminal M.W.P. No. 3427 of 2002

G.D. Singh	APPELLANT
Vs	
Lok Nath Verma Inspector, U.P. Vigilance Establishment and Others	RESPONDENT

Date of Decision : 29-10-2007

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 82, 83

Citation : (2008) 1 ACR 722

Hon'ble Judges : R.N. Misra, J;Amar Saran, J

Bench : Division Bench

Advocate : Devendra Pratap and Siddharth Singh, for the Appellant; A.K. Sand and A.G.A., for the Respondent

Judgement

Amar Saran and R.N. Misra, JJ.—This case initially came up before the present Division Bench on 10.1.2007, when we expressed our dismay that in spite of the case being under the Prevention of Corruption Act the arrest of the Petitioner G. D. Singh, a Superintending Engineer in the U.P.S.E.B., was stayed on 11.7.2002 in respect of an F.I.R. dated 18.6.2002 and in almost five years thereafter the investigation of the case was not concluded. We sought an explanation from the Investigating Officer and directed conclusion of the investigation expeditiously.

2. On 31.1.2007, when we were informed by the learned A.G.A. that after completion of the investigation a report was sent to the State Government on 1.12.2003 for sanction of prosecution, we were shocked to learn that in over three years the State Government had not taken any decision on the issue of sanction and we directed the State Government to take a decision on the matter within 3 weeks. Realizing that the case against the Petitioner was only representative of a larger category of cases, we sought details about the case against G. D. Singh as well as details in tabular form about the status of other cases which were pending for sanction with it, the period thereof, the level at which the delay had been occasioned and the reasons for delays, if any, in the

return to be filed by Director of Vigilance.

3. By an affidavit dated 1.3.2007, we were informed that till 19.2.2007, 77 matters were pending before the State Government for prosecution sanction against various accused persons (the number of accused was not however specified) and that there was another list which showed that cases against 584 accused person were pending till 27.2.2007 before the competent authorities of various departments for grant of sanctions. Some of these cases were more than 10 years old. Expressing our dismay over this state of affairs as corruption in a civilised society was a disease like cancer or H.I.V. leading to A.I.D.S. and was becoming incurable as observed in paragraph 7 in State of Madhya Pradesh and Others Vs. Shri Ram Singh, and that the socio-political system would crumble under its own weight unless this widespread corruption was checked, which was a danger to democracy and our economic and socio-political system. We, therefore, directed that steps ought to be taken for completing the procedure for sanction within 3 months at various levels by our order dated 8.3.2007.

4. As the final report had been submitted in the Petitioner''s case and only a departmental enquiry had been ordered and the Petitioner chose not to press the present writ petition, we dismissed the same so far as the Petitioner was concerned and directed that henceforth the case would be listed under the heading ''In re: In the matter of sanction for prosecution in Vigilance Matters v. State of U.P. and Ors.

5. Thereafter we have been monitoring the matter, receiving reports on different dates and continually issuing orders in the nature of mandamus as and when required.

6. The last such affidavit dated 29.10.2007, sworn by Under Secretary, Vigilance Department, has been filed before us today.

7. In the said affidavit, it is mentioned that the department has submitted two lists. The first list relates to 77 cases and the other list related to 588 accused persons. It was informed by an earlier affidavit dated 21.7.2007 that out of 588 accused persons sanction has been accorded in the cases of 397 accused persons and the case of 105 accused were being processed for sanction. Upto 22.10.2007 sanction for prosecution of 42 accused was further granted. It was refused in two cases and with respect to 61 accused persons the application for grant of sanction was pending before the State Government/competent authority. A chart mentioning that in the case of 440 accused persons sanction had been granted. Sanction was not required in the cases of 62 accused persons as they had retired and they were not Government servants. In 12 cases the accused had died. In one case re-investigation was ordered and in 10 cases the matters were pending before the State Vigilance Committee and in 61 cases the matters for sanction were pending before the State Government. So far as the second list relating to 77 cases was concerned, it was stated that in 40 cases sanction had been granted and decision was awaited in only 37 cases. Although this is a substantial

achievement, however, we still feel that the State Government and the concerned departments should have acted with greater promptitude and they should have disposed of all the remaining matters concerning sanctions as we had directed by our order dated 8.3.2007 by taking steps for completing the process for sanctions at various levels within 3 months from that date. We now hope that by the next date of listing the remaining pending matters for sanction shall be disposed of. Also it needs to be clarified as to how many accused persons are involved in the 40 cases abovementioned which are pending for sanction, as the number of accused involved in those cases have not been specified. In case the matters relating to sanctions against any accused persons still remain pending even on the next date of listing we should be given complete details about said accused persons and the reasons for failure to comply with this direction in toto.

8. There is another cause for anxiety. By our earlier order dated 23.7.2007 we had directed the State Government to furnish details of the cases and Court numbers in which charge-sheets had been submitted against the accused persons. A list of 223 cases against the accused persons, where charge-sheets have been filed mentioning relevant details, has been furnished as Annexure-2 to the affidavit. However, we find that with regard to 217 cases the charge-sheets have not yet been filed and cognizance not yet taken by the Courts concerned as indicated in Annexure-3 to the affidavit. Again in the case of 62 accused persons, where prosecution sanction was not required, charge-sheets have been submitted against 29 accused persons details in regard to which have been furnished as Annexure-4 to the affidavit. Information about the remaining 33 persons was still awaited.

9. We gather the impression that the Courts are delaying in taking of cognizance or in accepting charge-sheets so far as the 217 cases mentioned in the list in Annexure-3 of the affidavit and some of the cases mentioned in Annexure-4 against 62 accused persons, where sanctions are not required, probably because the accused have not been arrested. Looking to the status and connections of the highly placed public servant accused involved in corruption cases who have been able to stall investigations and trials of their crimes for so many years, we would not be surprised to learn that the said accused have colluded with police officers at the local level who are supposed to arrest them by asking them to refuse to offer co-operation to the Vigilance Department in these matters, so as to render impotent the efforts of the Vigilance Department to submit charge-sheets against them. To obviate this problem, we direct the D. G. P., U.P., to issue instructions to the concerned police officers of the concerned police stations to render all assistance to the Vigilance Department for arresting the said accused and for producing them before the trial courts so that cognizance may be taken and, if necessary, by seeking initiation of proceedings against the said accused under Sections 82 and 83, Cr. P.C. if they are not voluntarily appearing before the Courts concerned.

10. We, also direct the Registrar General of this Court to communicate to the Courts concerned that in regard to the cases, mentioned in Annexures-2, 3 and 4 to the affidavit, where charge-sheets have been submitted, the trials of the said cases involving acts of corruption and misappropriation of public money, must be concluded as expeditiously as possible, and the District Judges concerned shall also take steps to instruct subordinate Courts to oversee that police is taking appropriate measures for expeditious arrest of the accused (including by issuing orders under Sections 82 and 83, Cr. P.C.) if they are needed so that cognizance may be taken on the basis of the charge-sheets which have been prepared. The concerned Courts shall also submit compliance reports every month through their District Judges in respect of the progress of the trials and regarding cognizance, on acceptance of charge-sheets and regarding arrest of wanted accused, which shall be placed before this Court on the next date of listing and on subsequent dates, until the said trials are disposed of.

List this case on 4.1.2008 next.

11. The Registrar is directed to communicate the aforesaid directions to the Courts concerned through the District Judges of the concerned districts and to the D. G. P., U.P., and other Respondents within 10 days.

12. Let the matter now be placed before Hon''ble the Chief Justice/Senior Judge for decision by his lordship as to whether he would like this Bench to continue to monitor this matter on the next and subsequent dates or whether he would like to assign the matter to some other Bench, if he so choses of his choice.

13. Copy of this order may be given to Sri A. K. Sand, learned A.G.A. within a week free of cost.

