

(2010) 04 RAJ CK 0068
In the Rajasthan High Court

Karan Singh Rathore

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 409, 420, 467, 471
Prevention of Corruption Act, 1988 — Section 13

Citation : (2010) 04 RAJ CK 0068

Hon'ble Judges : Jagdish Bhalla, C.J.; Dinesh Maheshwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This intra-court appeal is directed against the order dated 12.03.2010 whereby the learned Single Judge of this Court has declined to entertain the writ petition (CWP No. 2386/2010) filed by the petitioner-appellant in challenge to the orders passed by the State Government on 02.02.2010 (Annex.8 and Annex.9) granting sanction for his prosecution in FIR Nos. 279/2002 and 280/2002 registered by the Anti Corruption Bureau, Rajasthan, Jaipur for offences under Sections 13(1)(c)(d) and 13(2) of the Prevention of Corruption Act, 1988 and Sections 409, 420, 467, 471, 477A & 120B of the Indian Penal Code; and placing him under suspension.

2. The petitioner-appellant filed the writ petition aforesaid with the submissions that while posted as the Assistant Engineer, Water Shed Development and Social Conservation, Pokaran in the year 1996-1997, his duties were to provide supervision and technical guidance to the Junior Engineers undertaking various works in the clusters falling under his jurisdiction but then, he was not entrusted with any duty of preparing, verifying or sanctioning the bills prepared by the Water Shed Committee; and he was simply entrusted the job of forwarding the bills provided to him to the Project Implementation Agency.

3. While pointing out that the aforesaid FIRs bearing Nos. 279/2002 and 280/2002 were registered on the allegations that the Users Committee practiced

irregularities in the construction work and obtained payment at inflated rates in excess to the work done and his name was also included as an accused in the investigation; and while referring to the orders for sanction of prosecution in relation to the aforesaid FIRs as issued by the State Government on 02.02.2010 (Annex.8), the appellant raised the grievance that the sanction had been issued in a mechanical manner and without application of mind. The appellant asserted that verification of bills was not his job at all nor he passed the bills; that the bills as prepared by the Committee and verified by the Junior Engineer were simply forwarded by him for necessary action; and that, in fact, he was only a forwarding officer and nothing more.

4. The learned Single Judge after noticing the contents of the impugned orders dated 02.02.2010 though found it premature to comment on the merits of the case but found no reason to entertain the writ petition in the given set of facts and circumstances.

5. Seeking to assail the order passed by the learned Single Judge, the learned Counsel has laid emphasis on the submissions that the appellant was not entrusted with the duty of preparing, verifying or sanctioning the bills; that the bills were prepared by the Committee and verified by the concerned Junior Engineer; and that the appellant was only entrusted with the job of forwarding the bills to the Project Implementation Agency. While pointing out that the petitioner-appellant had made detailed representation in the matter that he had no role to play in preparation of the bills and could not be held liable on the dispute concerning the rates, the learned Counsel submitted that granting of the sanction for prosecution is a serious matter that could not have been done in a mechanical manner; and when the impugned orders stood vitiated for non-consideration of the material on record, the learned Single Judge was not right in refusing to entertain the writ petition.

6. After having heard the learned Counsel for the appellant and after having examined the material placed on record, we are unable to find any reason to show interference in this matter.

7. While granting the sanction for prosecution, what is necessary is that the sanctioning authority should be satisfied on the evidence collected by the investigating agency about existence of a prima facie case against the accused that would warrant grant of sanction. After having examined the impugned orders, we find that substantial and cogent material has been collected by the investigating agency regarding preparation of false records showing execution of work and showing payments either at escalated rates or for the work not done; and complicity of the persons related with the works in question, including the appellant, has been prima facie demonstrated by the investigating agency with the relevant material. The authority concerned, while granting sanction, appears to have meticulously examined the entire relevant record before forming the opinion that the case was fit enough for according prosecution sanction; and there does not appear any infirmity in the sanction order passed by the authority

so as to consider any interference by the Court.

8. The submission that the appellant was only a forwarding officer and had no role to play in preparing or sanctioning of the bills cannot be accepted in the face of material available on record including the specific recommendation of the appellant for payment of a particular sum of money. The bill as placed on record for example as Annexure-4 carries the endorsement of the appellant to the following effect:

:- 3]48657-00 v{kjs :i;s rhu yk[k vMrkyhl gtkj N% IkS lrkou ds Hkqxrku gsrq izLrkfor A

9. It is also noticed that the authority concerned while granting prosecution sanction even afforded an opportunity of hearing to the appellant and sought comments from the Investigating Officer on the representation made by the appellant. Thereafter, various aspects of complicity of various persons including the appellant have been considered and it has, inter alia, been pointed out that before making recommendations, the appellant never bothered to verify the contents of the bills as per the applicable rates. With the allegations being of criminal conspiracy too, the appellant cannot be absolved of his liability in the matter, at least at this stage of granting prosecution sanction.

10. Having examined the orders passed by the sanctioning authority, this Court is satisfied that the same have been passed with clear application of mind on all the relevant material and no case is made out for interference. In the circumstances, it appears appropriate not to dilate further on the allegations against the petitioner lest it causes any prejudice in the proper trial of the case before the Court concerned. Suffice is to conclude with the observations that there is no infirmity in the order of prosecution sanction.

11. Other part of the challenge by the petitioner to the order putting him under suspension remains baseless. The authority concerned cannot be said to have committed any error in putting him under suspension with trial of the appellant for the offences aforesaid being under way after prosecution sanction.

12. As a result of the discussion aforesaid, the appeal fails and is, therefore, dismissed summarily.