
(2020) 02 RAJ CK 0227
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1950 Of 2020

Khaleel Ahmed

APPELLANT

Vs

State Bank Of India And Ors

RESPONDENT

Date of Decision : 11-02-2020

Acts Referred:

Citation : (2020) 02 RAJ CK 0227

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Rakesh Arora

Final Decision : Dismissed

Judgement

1. By way of the present writ petition the petitioner has prayed that the disciplinary enquiry lodged against him by way of the communication dated 31.12.2019 (Annexs.6 & 7) be stayed till the disposal of criminal case pending against the petitioner, pursuant to FIRs (dated 06.11.2019 and 03.12.2019) lodged by the respondent "Bank.
2. Mr. Arora, learned counsel for the petitioner, contended that in case the respondent "Bank is allowed to continue with the disciplinary enquiry, the petitioner's defence in the criminal case would be adversely affected.
3. I have heard learned counsel for the petitioner and perused the charge-sheets/ memorandum of charges enclosed with the letter dated 31.12.2019, vis-a-vis the allegations levelled in the FIRs.
4. A perusal of charges levelled against the petitioner in the disciplinary enquiry reveals that there are host of charges and allegations against the petitioner, which essentially relate to functioning of Bank and protocol to be followed, while carrying out banking transactions; whereas the allegations

against the petitioner in FIRs are in relation to fraudulent sanction of loan and withdrawal of money.

5. Some of the charges involved in the impugned charge-sheet may overlap the charges involved in the criminal case lodged against the petitioner,

however, the scope of disciplinary enquiry against the petitioner " a Bank Officer, is entirely different.

6. In the disciplinary enquiry the respondent " Bank is required to enquire into petitioner's acts of commission or omission in sanctioning,

disbursement and follow up of loan and further to ascertain as to whether the petitioner has followed the norms and guidelines set by the Bank;

whereas in the criminal case the prosecution is required to establish the guilt of the petitioner beyond reasonable doubt. The standard of proof in

criminal case and disciplinary enquiry are entirely different.

7. The questions to be determined by the Bank can only be determined by the Enquiry Officer of the Bank based on the material available with the

Bank vis-a-vis the procedure and protocol prescribed. Such enquiry can in no case affect the criminal trial against petitioner.

8. That apart, in case the disciplinary enquiry against the petitioner is stayed on the ground raised in the present petition, it will adversely impact the

discipline of the Bank, as other Officers of the Bank will also be prompted to ignore the guidelines and laid down procedure for sanction and

disbursement of loan.

9. Needless to say that the criminal case is likely to take substantial time and energy and its culmination cannot entail determination of amount to be

recovered from the petitioner, in case he is found guilty.

10. In light of the judgments of Hon'ble the Supreme Court in Kendriya Vidyalaya Sangathan & Ors Vs. T. Srinivas reported in 2004 AIR (SC)

4127 and Hindustan Petroleum Corporation Ltd & Ors Vs. Sarvesh Berry reported in 2005 AIR (SC) 1406, this Court is of the considered opinion that

having regard to the facts involved in the present case, departmental proceedings against the petitioner cannot be stalled, particularly considering the

following observations made in the judgment of Hindustan Petroleum Corporation Ltd (supra) :

"The purpose of departmental enquiry and of prosecution is two different and distinct aspects. The criminal prosecution is launched for an offence

for violation of a duty the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public.

So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and

efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as

possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed

pending trial in criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances.

There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of

grave nature involving complicated questions of fact and law. Offence generally implies infringement of public duty, as distinguished from mere private

rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the

evidence defined under the provisions of the Indian Evidence Act 1872 (in short the "Evidence Act"). Converse is the case of departmental

enquiry. The enquiry in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct

defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal

position. Under these circumstances, what is required to be seen is whether the department enquiry would seriously prejudice the delinquent in his

defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances."

11. Looking to the peculiarity of the facts at hands, as already noticed above, there being variance of questions involved, disciplinary proceedings

against the petitioner cannot be kept in abeyance till disposal of the criminal case. Respondent "Bank cannot be expected to continue with an

employee, who has allegedly caused loss to the Bank.

12. The writ petition, therefore, fails.

13. The stay application is also dismissed.