
(2018) 02 DEL CK 0331

In the Delhi High Court

Case No : Criminal Revision Petition No. 304 Of 2016

North Delhi Municipal Corporation

APPELLANT

Vs

Ashok Saran

RESPONDENT

Date of Decision : 12-02-2018

Acts Referred:

Delhi Development Act, 1957 — Section 471
Code Of Criminal Procedure, 1973 — Section 468

Citation : (2018) 02 DEL CK 0331

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Ajjay Aroraa, Kapil Dutta

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

CRL. Rev. P. 304/2016 & Crl.M.A.6515/2017 (stay)

1. The petitioner MCD is aggrieved by order dated 09.03.2016, whereby, the Revisional Court has allowed the revision petition filed by the respondent,

impugning order dated 10.03.2015 which had dismissed the application of the respondent under Section 471 of the Delhi Municipal Corporation Act,

1957 (hereinafter referred to as "DMC Act").

2. The respondent had filed the subject application contending that the prosecution launched by the Corporation MCD was barred by limitation as it

was filed beyond the statutory period of six months prescribed under Section 471 of the DMC Act, 1957.

3. The Trial court was of the view that the cause of action was a continuing cause of action and, as such, every passing day led to fresh cause of

action entitling the Corporation to file the challan/launched prosecution.

4. The Revisional Court, by the impugned order dated 09.03.2016, set aside the order of the Trial Court holding that the period of limitation prescribed

under Section 471 of the DMC Act, 1957 was six months and it started to run when the offence was first brought to the notice of the complainant,

which, in the present case, was found to be 24 years prior to the challan having been filed in the Court. This result was premised on the finding that

the respondent had placed on record evidence to show that he had been running the subject Petrol Pump since 1961 and the same was within the

knowledge of the MCD as he had obtained the trade licence, which was being renewed from time to time.

5. Reliance is placed by the respondent on the decision of a Division Bench of this Court in *Municipal Corporation of Delhi vs. Ravinder Kumar*: 1990

(42) DLT 13, wherein, the Division Bench has held that the limitation for launching prosecution would be the limitation prescribed under Section 471 of

the DMC Act, 1957 and not the one prescribed under Section 468 of Cr. P.C.

6. Learned counsel for the petitioner submits that not only has the impugned order held in favour of the respondent, it has also directed the

Commissioner, MCD (North) to conduct an inquiry into the matter to fix the responsibility of the erring MCD officials for initiating motivated

prosecution against the petitioner and also to deduct the cost awarded of Rs.10,000/- to the paid to the respondent and Rs.20,000/- to be deposited in

the State Exchequer, from the erring officials.

7. Learned counsel for the petitioner submits that the Corporation had launched the prosecution based on the material available on record and there

were no malafides on their part and the Officers had acted bonafidely in the interest of the Corporation and in accordance with their understanding of

law. Learned counsel for the petitioner submits that the officials had acted bonafidely and there was no motivated prosecution against the respondent.

8. Respondent, who appears in person, submits that he had not made any complaint against the officials but had only filed a revision petition to bring to

the notice of the Court the relevant facts. He further submits that he does not wish to press any complaint against the officials of the MCD and does

not contend that the prosecution was motivated.

9. After perusal of the records, I am not inclined to interfere with the impugned

order dated 09.03.2016 insofar as it accepts the revision petition filed by the respondent and holds that the prosecution launched by the petitioner was beyond time as prescribed under Section 471 of the DMC Act.

However, keeping in view of the above noted facts, I am of the view that nothing has been brought on record to show that the action initiated by the officers of the Petitioner MCD was malafide and motivated.

10. In view of the above, the directions contained in the impugned order directing the Commissioner, MCD (North) to conduct an inquiry into the matter, to fix the responsibility of the erring MCD officials for initiating motivated prosecution against the petitioner and also to deduct the cost awarded of Rs.30,000/-, from the erring officials is set aside. However, the petitioner/MCD shall pay the cost of Rs.10,000/-to respondent.

11. The petition is disposed of in the above terms.

12. Order Dasti under the signatures of the Court Master.