
(2000) 08 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 181 of 1990

Punjab State Board for Prevention and Control of Water
Pollution

APPELLANT

Vs

Raghu Nath

RESPONDENT

Date of Decision : 10-08-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 197

Penal Code, 1860 (IPC) — Section 21

Water (Prevention and Control of Pollution) Act, 1974 — Section 44, 46, 47

Citation : (2001) 1 RCR(Criminal) 4

Hon'ble Judges : V.K. Bali, J

Bench : Single Bench

Advocate : Mr. S.C. Sibal and Mr. Karan Randhawa, for the Appellant; Mr. T.P.S. Mann, for the Respondent

Judgement

V.K. Bali, J.—By this order, I propose to decide two connected Criminal Revisions bearing Nos. 181 of 1990 and 162 of 1988 as both these revisions are directed against the similar orders.

2. The bare minimum facts that need a necessary mention have, however, been ex-, traded from Criminal Revision No. 181 of 1990.

3. In a pending complaint u/s 44 read with Section 47 of the Water (Prevention and Control) Pollution Act, 1974, two out of four accused, namely, Shri Ghansham Dass Misra, Vice President of the Municipal Committee and Shri Raghunath Sahai Puri, President of Municipal Committee, made an application praying therein that the complaint against them be dismissed for want of sanction as required u/s 197 of the Code of Criminal Procedure. It was, inter alia, pleaded by them that they are public servants, not removable except by the State Government and, therefore, prosecution against them could not be launched without sanction as required u/s 197 of the Code of Criminal Procedure and further that offences alleged against them were in respect of acts done or

purporting to have been done in the discharge of their official duties.

4. As before the trial Court so also before me, it is not disputed that the applicants were accused of the offences while acting or purporting to act in the discharge of their official duties. This non-denial had been referred to by the learned Magistrate in his order dated September 29, 1989 on the last page of the said order. The application filed by Shri Ghansham Dass Misra and Shri Raghunath Sahai Puri was contested by the petitioner-Punjab State Board for the Prevention and Control of Water Pollution, but vide impugned order passed by the learned Magistrate dated September 29, 1989 the same was accepted. The operative part of the impugned order reads thus :-

"The complaint launched against the applicants being without sanction of the State Government as required by Section 197 Cr.P.C. no cognizance can be taken against them and, therefore, the application of Shri G.D. Misra, Vice President and Shri Raghunath Sahai, Puri, President of the Committee is bad in the eyes of law and they are, therefore, discharged for want of sanction u/s 197 Cr.P.C."

5. While coming to the conclusion aforesaid, the learned Magistrate, besides relying upon the provisions of Section 197 of the Code of Criminal Procedure also relied upon Section 21 of the Indian Penal Code as also the judgment given by Rajasthan High Court in Shrilal Vs. Manmath Kumar Misra and Another, , another judgment of Patna High Court in Kali Prasad Singh v. Siri Krishun AIR 193 Pat 543 and the judgment of Saurashtra High Court in Ibrahim A. Karim v. State and another AIR 1953 GUJ 143.

6. All that has been contended by Mr. S.C. Sibal, the learned Senior Advocate, is that inasmuch as the President and the Vice President of the Municipal Committee are removable by virtue of no-confidence motion, they cannot be called public servants as also that they are not covered by Section 21 of the Indian Penal Code. Both the points referred to above have been threadbare discussed by the learned Magistrate vide his impugned order dated September 29, 1989. No arguments have been addressed that may detract from the findings recorded by the learned Magistrate based upon the provisions of law as mentioned above as also three judgments of various High Courts, a reference whereof has also been given above. Mr. Sibal is also unable to distinguish the judgments mentioned above.

7. Mr. T.P.S. Mann has cited before me a judgment of this Court in Nathu Ram v. State of Haryana 1984(1) RCR 575 : 1984 C.C.C. 337 to support the impugned order.

8. Finding no merit in these revisions, I dismiss the same.

9. Revisions dismissed.