

(2015) 08 AHC CK 0206
In the Allahabad High Court
Case No : Criminal Revision No. 1180 of 1997

Ram Charan Mishra

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 25-08-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Prevention of Corruption Act, 1988 — Section 13(2), 7

Citation : (2015) 91 ALLCC 535

Hon'ble Judges : Karuna Nand Bajpayee, J.

Bench : Single Bench

Advocate : Sunil Kumar and Amit Kumar Srivastava, for the Appellant

Judgement

Karuna Nand Bajpayee, J.—This criminal revision has been filed against the order dated 11.6.1997 passed by Special Judge (Anti Corruption), Gorakhpur in Special Case No. 35 of 1994, State v. Ram Charan Mishra, under sections 7, 13(2) Prevention of Corruption Act, 1988, relating to Police Station Cantt, district Gorakhpur whereby he had rejected the application moved on behalf of revisionist, seeking discharge or dismissal of the criminal proceeding pending against him in the Court and after rejecting the application fixed up the date in order to frame the charges. Heard revisionist's Counsel as well as learned A.G.A.

2. Entire record has been perused.

3. It transpires from the record that by an order dated 30.5.1997 another Bench of this Court while disposing of the application of the revisionist under section 482 Cr.P.C. had directed the Court below to dispose of the objection, if any, that may be raised before the Court below after giving due opportunity of hearing to the revisionist. In compliance with the same order, the impugned order under challenge in this revision was passed by the Court below.

4. The sole point raised by the Counsel is that as the cause for which the bribe is said to have been sought had already vanished and therefore, there was no

occasion for the revisionist to proceed in the direction of asking for bribe and in that view of the matter the basis to proceed in the criminal trial against the accused has got lost and there is no justification for further trial which is going on. In this regard some case law was also cited in the Court below and has been placed here again before this Court. The perusal of the impugned order reveals that all factual and legal aspects of the case have been thoroughly considered by the Court below and have been very well analysed and appreciated. The reasoning adopted by the trial Court appears to be faultless and the appreciation of the case law is also commendable. So far as the conduct or justification on the part of the revisionist to seek the bribe is concerned it all depends upon the nature, behavior and psychology of the accused. Different persons adopt different modus operandi to commit the crime or to commit the offence. It cannot be said as a matter of unshaken rule that if the cause to seek bribe had been lost then there was no question for the accused to make an attempt to capitalize or encash the same. Even the assertion of the Counsel that the cause to take bribe had been lost, depends upon a series of complicated facts and circumstances of the case and would require a very elaboration detailed appreciation of the entire factual gamut of the case and it is only thereafter that the Court may come up to the finding that the cause to seek bribe had been actually lost. In fact if after recording the evidence the trial Court comes to the finding that there was never any cause existing to seek any bribe it may be taken as a relevant circumstance while passing the verdict of guilty or innocence of the accused but that can never be the sole criteria for a judge to pronounce the guilt or innocence of accused. In fact despite the legal limitations which the trial Court faces while framing the charges, it has recorded the complete details in its order which it is not even required to go into while framing the charge usually. But the trial Court has still gone into the meticulous details of the case and has passed a very elaborate order. But it appears that indifference to the direction of this Court, this commendable exercise was undertaken by the trial Court and rightly so. This Court does not propose to reopen entire factual and legal aspects of the case once again. Suffice it to say that there is absolutely no illegality involved in this matter and this Court also does not perceive any error or impropriety in the impugned order. This Court endorses the view taken by Court below. The defence plea raised has rightly been held not sufficient to either discharge the accused or terminate the proceedings going on against the accused.

There is no good ground to make interference in the impugned order.

Revision stands dismissed.