
(2018) 11 UK CK 0160

In the Uttarakhand High Court

Case No : Criminal Revision No. 313, 314 Of 2016

Ram Sagar

APPELLANT

Vs

Central Bureau Of Investigation

RESPONDENT

Date of Decision : 14-11-2018

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 409, 420, 477A
Prevention of Corruption Act, 1988 — 13(1)(d), 13(2)
Code of Criminal Procedure, 1973 — Section 197, 397

Citation : (2018) 11 UK CK 0160

Hon'ble Judges : Lok Pal Singh, J

Bench : Single Bench

Advocate : Navneet Kaushik, V.P. Bahuguna, Sandeep Tandon

Final Decision : Dismissed

Judgement

Lok Pal Singh, J.

1. Since identical question of law and facts are involved in both the criminal revisions, therefore, they are being disposed of by this common judgment and order for the sake of brevity.

2) Criminal revision no. 313 of 2016 is directed against the order dated 05.12.2015, passed by Special Judge, Anti Corruption (CBI), Dehradun, in C.B.I. case no. 04 of 2014, C.B.I. vs Ram Sagar, whereby charges were framed against the revisionist under Section 120B, 420 and 477A of IPC.

3) Criminal revision no. 314 of 2016 is directed against the order dated 05.12.2015, passed by Special Judge, Anti Corruption (CBI), Dehradun, in C.B.I. case no. 05 of 2014, C.B.I. vs Ram Sagar, whereby charges were framed against the revisionist under Section 120B, 420 of IPC.

4) Heard learned counsel for the parties and perused the entire record.

5) Brief facts of the case are that the revisionist Ram Sagar was the Director,

Aryabhata Research Institute of Observational Sciences (ARIES), Manora Peak, Nainital at the relevant point of time. Instant case was registered in CBI, Dehradun Branch on the order dated 16.04.2013 of this Court, passed in WPPIL no. 07 of 2012, filed by Sri D.N. Bhatt and another. The matter was initially referred to Central Vigilance Commission, but from the report submitted by it, the Court observed that, prima facie, it appears that the inquiry was not made in the proper manner the same should have been made having regard to the nature of the allegations and directed the CBI to register an FIR on the basis of allegations made in the writ petition (PIL) and investigate the matter on the basis of that FIR.

6) 31 different allegations were made in the writ petition which were made basis of the registration of the instant FIR. Consequently, the FIR was registered under Section 120B, 409, 420 of IPC and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 against three named persons, including the revisionist. Said FIR was also registered against other unknown officials of ARIES and other unknown persons.

7) During investigation it was revealed that out of total 31 allegations, 29 allegations were either incorrect or were found to be procedural lapses on the part of Director ARIES or the Governing Council ARIES and no criminal liability could be attributed in these cases to anybody. Only two allegations were found to be criminal in nature during investigation. Since both the instances of conspiracy are different in nature and have been committed separately, two separate charge sheets were filed against the revisionist.

8) Supplementary affidavits have been filed on behalf of the revisionist during the pendency of aforementioned criminal revisions stating therein that the revisionist is only challenging the part of the order impugned dated 05.12.2015 to the extent the court below has framed charges under Sections 120B, 420 and 477A of IPC in CBI case no. 04 of 2014 against him, as also against the charges framed against him under Section 120B and 420 of IPC in CBI case no. 05 of 2014, on the ground that the prosecution did not obtain the permission from the department as required under Section 197 of Cr.P.C.. It is also stated in the supplementary affidavits that the revisionist is not challenging the part of order impugned dated 05.12.2015 by which the charge under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988, was framed against him.

9) A perusal of the orders impugned, both dated 05.12.2015, would reveal that learned Special Judge, Anti Corruption (CBI), Dehradun has framed the charges, in CBI case no. 04 of 2014, against the revisionist under Section 120B r.w. Section 420 and Section 477A of IPC and Section 13(2) r.w. 13(1)(d) of the Prevention of Corruption Act, 1988. Similarly, charges under Sections 120B, 420 of IPC and Section 13(2) r.w. 13(1)(d) of Prevention of Corruption Act, 1988 were framed against the revisionist in CBI case no. 05 of 2014.

10) A perusal of the record would reveal that revisionist had earlier moved two

separate applications, viz., application nos. 69B and 94B respectively, before the court below seeking discharge on preliminary ground of absence of sanction under Section 197 of Cr.P.C. for prosecution under Sections 120B, 420, 477A of IPC, as also under Section 120B, 420 of IPC. Learned court below has dismissed said applications by a well discussed and reasoned order, both dated 25.08.2015, observing that making selection and appointment may have been the official duty of the revisionist, but making appointment illegally and interpolation in the records cannot be termed as acts done in discharge of official duties. It was also observed that acts done by the revisionist cannot be termed as acts done in discharge of official duty. Thus, there is no requirement of sanction under Section 197 of Cr.P.C. for launching prosecution against the revisionist.

11) Unlike the powers of the appellate court, in exercise of powers under Section 397 of Cr.P.C., this Court is not required to re-appreciate the evidence on record. Rather, what is required to be seen is the illegality, if any, committed by the trial court. The trial court appears to have satisfied itself after hearing learned counsel for the parties before framing the charges against the revisionist. After perusal of the material available on record, I am of the view that at the time of framing of charges meticulous calculation of evidence is not necessary.

12) In the opinion of this Court, there is no illegality committed by the trial court. Accordingly, both the criminal revisions are hereby dismissed.