
(1990) 12 MP CK 0011

In the Madhya Pradesh High Court

Case No : Criminal Rev. No. 325 of 1990 & Criminal Revision No. 325 of 1990

Ramesh Chand Jain and Others

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 05-12-1990

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173
Penal Code, 1860 (IPC) — Section 120B, 21, 468, 471
Prevention of Corruption Act, 1988 — Section 5(1), 5(2)

Citation : (1991) CriLJ 2957

Hon'ble Judges : B.M. Lal, J

Bench : Single Bench

Advocate : Surendra Singh, for the Appellant; G.C. Jain, G.A., for the Respondent

Judgement

B.M. Lal, J.—The applicants Ramesh Chand Jain, P.C. Jain and Raj Kumar Jain have come up before this Court for quashing the order impugned dated 8-2-1990, whereby the Special Judge, Jabalpur has framed charges against them (along with eight other accused persons) for the offences punishable Under Sections 5(2)/5(1)(a) of the Prevention of Corruption Act and Under Sections 120B, 468 and 471 of the Indian Penal Code.

2. The charges against these applicants are that they are partners of M/s. Bhilai Motors, Raipur; this partnership firm was formed in the year 1980; one Subash Chand Jain, co-accused, is also one of the partners of the said firm; the firm is dealing in supply of Tata Vehicles (Trucks) to individual buyers, Corporations and Government. It is alleged that on 30-9-1980, Manik Chand and Dhanjo Bai, co-accused, formed a company styled as M/s. United Goods Carriers; on the same day Rajesh Jain and L. N. Singh, (co-accused) also formed a company M/s. Bilaspur-Raipur Transport Company; on 18-5-1981 Bhupatlal and Kashiram, (co-accused) also formed a company M/s. Bhilai Transport Company; then again on 28-8-1981 Bhanjo Bai and Rajesh Jain, (co-accused), formed a company M/s. Jagdalpur Goods Carriers; Subash Chand Jain, co-accused, is the Managing

partner of M/ s. Bhilai Motors. The four transport companies applied for loans to the Punjab & Sindh Bank, Raipur for purchase of Tata Trucks. The loan applications were processed by Shri G. S. Behel, (co-accused). He recommended sanctioning of the loans and on his recommendation loan amounts were sanctioned through Manager"s cheques in favour of M/s. Bhilai Motors, Raipur. It is further alleged that on the following dates the said amounts were released : (i) Rs. 13,60,256 on 26-11-1980 to M/s. Bilaspur-Raipur Transport Co.; (ii) Rs. 13,60,256/- on 26-11-1980 to M/s Jagdalpur Goods Carriers; and (in) Rs. 12, 36, 545/- on 8-9-1981 to M/s. Bhilai Transport Co. The co-accused Subash Chand Jain had signed the guarantee form for the four transport Companies. Ramesh Chand Jain, petitioner No. 1 has also signed the guarantee form for Jagdalpur Goods Carrier.

3. The aforesaid cheques were deposited in the account of M/s. Bhilai Motors and subsequently the said amounts were withdrawn by the co-accused Subash Chand Jain, the Managing partner of Bhilai Motors. However, the trucks were never supplied to the four transport companies referred to above, but forged and fabricated documents were submitted to the Bank to show that the trucks have, in fact, been supplied to the said companies.

4. On these facts, charge-sheet for the aforesaid offences was presented by the Investigating Agency (C.B.I.) and after going through the documents, the learned Special Judge, Jabalpur having found prima facie case against the applicants and the other co-accused persons, framed charges by the impugned order.

5. Shri Surendra Singh, learned counsel appearing for the applicants, vehemently argued that no case is made out against the applicants. The allegations in the First Information Report, as made against them, even if they are taken on their face value and accepted in their entirety, do not constitute the offences alleged and therefore there remains no question of appreciating the evidence. Under the facts and circumstances of the case, it is a matter of merely looking at the police papers referred to u/s 173 of the Code of Criminal Procedure and to decide whether the offences alleged are disclosed or not. He submitted that the learned Special Judge has mechanically without application of mind has framed the charges.

6. Shri Surendra Singh in support of his contention has also taken this Court through the record of the case and stated that the applicants are the sleeping partners of the firm; even they were not present at Raipur when the alleged incident had taken place and therefore the charges framed against them be quashed.

7. Suffice to say that after going through the documents, the learned Special Judge has framed charges and at this stage the niceties of the evidence so far collected and produced by the prosecution cannot be meticulously examined and this Court do not propose to say a single word on the merits of the case, because

in such cases where charges have been framed, and the accused persons have to face the trial, any amount of whisper on merits may prejudice the case of either side. Therefore, this court refrains from commenting on the merits of the case.

8. Shri Surendra Singh next contended that the applicants are not public servants and, therefore, they are not liable to be charge-sheeted under the provisions of Prevention of Corruption Act. It is submitted that Prevention of Corruption Act has been enacted only to prosecute public servants, as defined in Section 21 of the Indian Penal Code, who are involved in corruption cases.

9. To meet the argument of Shri Surendra Singh, it is necessary to look into the aims and objects of the Prevention of Corruption Act. It cannot be lost sight of that Act No. 2 of 1947 has been enacted by the Parliament because of bribery and corruption rampant amongst public servants which had enormously increased on account of the Second World War conditions where disbursement of public money in large quantity of sums was involved and the provisions of the Indian Penal Code have been found to be inadequate for taking suitable action against corrupt public servants. Therefore, to prevent the seriousness of the evil and curbing our corruption, Act No. 2 of 1947 was enacted and this Act is a social piece of legislation designed to prevent corrupt activities amongst public servants and to punish them, save to the extent of protection that is guaranteed under the Constitution of India, this Act and the allied laws. After independence, India becoming a sovereign democratic republic, the situation of post-war conditions did not improve and rampant corruption continues. In order to improve the living standard of citizens in every walk of life, extensive projects have been undertaken by the Central Government and the State Governments under the five year plans involving disbursement of public money in crores where temptation of greed for good fortune gives wide scope for employing corrupt practices blocking rapid progress in the country and therefore recently the Parliament has enacted Prevention of Corruption Act (No. 49 of 1988) for more effective prevention of corruption and bribery cases. Therefore, private individuals, who are found grabbing public funds in conspiracy with and active connivance of public servants, are also liable for such corrupt activities under the Prevention of Corruption Act and in such circumstances private individuals also cannot escape liability of the charge under the provisions of the Prevention of Corruption Act.

10. The Apex Court in State of West Bengal and Others Vs. Manmal Bhutoria and Others, has precisely dealt with the point in issue and held that even private individuals who are involved in corruption cases along with public servants are liable to be tried under the Prevention of Corruption Act. As such, the submission made by Shri Surendra Singh in this regard has no merit.

11. From the discussion aforesaid, the revision fails and is dismissed.