

(1995) 05 AHC CK 0028
In the Allahabad High Court
Case No : C.M.W. No. 19605 of 1985

Satya Narain Singh

APPELLANT

Vs

U.P. Public Service Tribunal and Others

RESPONDENT

Date of Decision : 08-05-1995

Acts Referred:

Penal Code, 1860 (IPC) — Section 366, 420, 478

Citation : (1995) 71 FLR 636 : (1996) 1 LLJ 495

Hon'ble Judges : P.K. Mukherjee, J

Bench : Single Bench

Advocate : R.M. Singh, for the Appellant;

Final Decision : Dismissed

Judgement

P.K. Mukherjee, J.—List has been revised. No one has turned up on behalf of the petitioner to prosecute the petition.

2. With the assistance of learned Standing Counsel, I have carefully gone through the writ petition and the impugned orders under challenge.

3. The petitioner is aggrieved by two orders; dated October 17, 1994 and July 19, 1977, passed by respondent Nos. 1 and 2 respectively, as well as the show cause notice dated September 19, 1974 issued by the respondent No. 2 calling upon the petitioner as to why the service of the petitioner be not dispensed with.

4. It appears that the Inspector General of Police, U.P. Lucknow, respondent No. 2 in exercise of powers conferred under Para 511 of Police Regulations interfered with the order passed by Superintendent of Police on December 23, 1972 and issued a show cause notice to the petitioner.

5. Against the aforesaid notice, the petitioner rushed to this Court by means of Writ Petition No. 12343 of 1975, which was dismissed on July 19, 1976 on the ground that the petitioner had an alternative efficacious remedy by giving suitable reply to the show cause notice before Inspector General of Police. The

present writ petition is directed against the order of dismissal from service, which has been passed by Inspector General of Police.

6. From the perusal of record, it is absolutely clear that there are charges under Sections 366/368/420 IPC against the petitioner. A criminal case, being Case Crime No. 172/71 was lodged against the petitioner, and, final report was given by Police.

7. The case of the petitioner is that since he was not found guilty in all the charges in the aforesaid criminal case by Police, on the basis of same charges, he could not be subsequently punished. Therefore, the order of dismissal is bad in law.

8. Since learned counsel for the petitioner is not present, this court is more careful to examine the whole matter, cautiously, so that no injustice is caused to any party.

9. The petitioner claims that he could not be subjected to double jeopardy. He claims that Superintendent of Police, Sitapur, by his order dated May 4, 1972 had exonerated the petitioner of all the charges under Sections 366/478/420 IPC. Once he was exonerated, no further proceedings were warranted under the law.

10. I have gone through the order dated May 4, 1972, contained in Annexure 5, which has been passed by Superintendent of Police, Sitapur. The very first paragraph of the order is significant. It reads as under:

"....From the available evidence the guilt of accused C/415 CP. Satya Narain Singh is no doubt established...."

11. Thus, in my view it does not lie in the mouth of the petitioner to complain that he was not found guilty of any charge by the enquiry officer. It was only on account of lack of corroborative evidence which led to his exoneration by order dated May 4, 1972.

12. One should not forget that "witnesses may lie, but circumstances do not". There are grave charges against the petitioner. Police Force is an organised force, which is protector of law. A pious duty is cast upon a Policeman to maintain law and order situation by protecting the life and property of each and every citizen of India. The moment a person joins this Organisation, and, takes the uniform, irrespective of his caste, creed or post, he is devoted to the service of mankind, by his unimpeachable conduct and character. If a Police man turns law breaker, by indulging himself in heinous crime, such as rape, arson, looting and grabbing the other's property, which is unfortunately the order of the day, the whole system will be disturbed and the confidence of people for this Organisation will be shaken.

13. Mere exoneration, that too, in the absence of corroborative evidence, cannot and will not prevent the Inspector General of Police, who is far superior and most

responsible authority and rather pivot of the Police force, to exercise his suo motu powers to punish such a person, whose moral conduct has been found shameful.

14. In the present case, the petitioner who was Police Constable on the relevant point of time, was charged with a crime of rape on a lady. On the own showing of petitioner, he was exonerated by order dated May 4, 1972. However, order dated May 4, 1972 does not actually exonerate him, but it is an order expressing inability to send the case to the Court for trial for want of corroborative evidence, and, this order has crystally made it clear that the guilt of the petitioner, was no doubt, "established".

15. In view of the aforesaid order, retention of such a person in service, that too, in the police force, is always undesirable.

16. This court records its appreciation for the Inspector General of Police for timely intervention and exercising his revisional jurisdiction for dismissing such an element from Police Force. Moreover, the following conclusion of the Inspector General of Police in his order dated September 19, 1974 is clinching, which reads as under:

".....Since there has been a gross miscarriage of justice as the Inquiring Officer had not at all properly appreciated the weight of various links of evidence in respect of the two charges and had also completely omitted to give his findings on charge No. II, it appears to me to be a fit case to exercise my revisionary powers under para 11 Police Regulations suo motu even at this late stage and I, therefore, call upon the party charged constable 415 C.P. Satya Narain Singh to show cause within 8 days of the receipt of this notice as to why he should not be dismissed from service in the police force. A copy of the findings of the Trying Officer is also enclosed. It is made clear to the party charged that any representation made by him will be duly considered before any order is passed in this case."

17. Since the explanation of the petitioner was most unsatisfactory, the Inspector General of Police dismissed the petitioner from service by his order dated July 19, 1977. Operative portion of the order of dismissal, which runs into seven pages, is being quoted below:

"I have carefully gone through the entire record of this case and quite agree with Sri H.K. Korr that the Trying Officer had grossly erred in the assessment and appreciation of the evidence and, therefore, the finding of exoneration of the charge was wholly erroneous. It was patently perverse resulting in gross miscarriage of justice. In his written explanation, C/415/C.P. Satya Narain Singh has not raised any new pleas. His pleas have already been discussed in detail by Sri H.K.Korr in the notice given by him. In view of the seriousness of the charges C/415/CP SatyaNarain Singh deserves a deterrent punishment and no punishment short of dismissal can meet the ends of justice. I, therefore, hereby order that C.P. Satya Narain Singh of district Gorakhpur be dismissed from

service from the date of receipt of this order. Senior Superintendent of Police Gorakhpur should personally serve this order upon him."

18. Since the orders passed by Inspector General of Police are "well reasoned", this court is of the view that petitioner does not deserve any sympathy or equity in the present case. In view of the glaring facts and circumstances of the present case, no interference under Article 226 of the Constitution of India is called for.

19. This court is not unmindful that the order of dismissal is major punishment and before passing such an order, the delinquent should be afforded every opportunity to defend himself. Records of this case speak themselves. This Court is, therefore, satisfied that all precautions warranted by law, have been taken, in the present case, before passing the impugned order of dismissal.

20. In the result, the writ petition fails, being devoid of merits, and is accordingly dismissed.