
(1989) 11 RAJ CK 0004

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 146 of 1989

State of Rajasthan

APPELLANT

Vs

Jaswant Singh

RESPONDENT

Date of Decision : 17-11-1989

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 2
Penal Code, 1860 (IPC) — Section 161
Prevention of Corruption Act, 1988 — Section 5

Citation : (1989) 2 RLW 352 : (1990) 1 WLN 572

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

Bench : Single Bench

Final Decision : Allowed

Judgement

M.B. Sharma, J.—This is a State Revision Petition against an order dated 14-3-1989 of the learned Special Judge for ACD Cases, Jaipur, discharging the accused non-petitioner of the charge u/s 161, IPC read with Section 5(1)(d)(2) of the Prevention of Corruption Act. The only ground on which the accused non-petitioner was discharged is that the charge-sheet could not be filed by the Addl. SP, Outpost, Jaipur Gramin who was not the incharge of the Police Station.

2. A well was dug by one Nathulal resident of Jireta Kalan Tehsil Dausa, Distt. Jaipur for irrigating his agricultural fields. He had applied for electric connection to the Assistant Engineer, RSEB, Dausa and demand notice date 23-1-1987 for Rs. 700/- was received. As Nathulal was an old man and having three sons including Babulal Bairwa, Babulal went to the office of the Assistant Engineer, RSEB, Dausa and as alleged that the accused non-petitioner gave out that the Asstt. Engineer will not release the connection unless something is paid as "KHARCHA PANI". Babulal returned back to his house and talked to his father. He again went to the office of the Assistant Engineer, and Jaswant Singh, again made a demand of Rs. 1,000/-. Ultimately, the accused non-petitioner is said to have agreed to pay a sum of Rs. 800/-. Babulal was asked by the accused non-

petitioner to come along with money on 2-2-1987. He never wanted to pay illegal gratification, therefore, he went to the office of the additional Superintendent of Police, Jaipur. A trap was laid and it is alleged that the accused non-petitioner was caught red handed with the money of Rs 800/-. After receiving the sanction for prosecution of the accused non-petitioner a charge-sheet was filed.

3. Before the learned Special Judge, an application was filed on behalf of the accused non-petitioner Jaswant Singh on 15-11-1988 that the proceedings against him should be dropped. In the application the reason for dropping the proceedings as stated was that the charge-sheet had not been filed by the Officer Incharge of the Police Station and has only been filed by his subordinate Investigating Officer, the Addl. S.P., A.C.D. Cases, Jaipur. As stated earlier the learned Addl. S.P., A.C.D. Cases, Jaipur discharged the accused non-petitioner while accepting the objection raised on behalf of the accused non-petitioner.

4. The question is as to whether the Addl. S.P., A.C.D. Cases, (Rural) Jaipur is Officer-in-charge of the Police Station or not?

5. Section 4 of the Cr.P.C. 1898 (old Code) is the same as Section 2 of the Cr. P.C. 1973 (new Code). Clause (s) of Section 4 of the Old code as well as Clause (o) of Section 2 of the new Code define "officer in charge of a Police Station" and it includes, when the officer-in-charge of the Police Station is absent from the station-house or unable from illness or other cause to perform his duties, the Police Officer present at the station house who is next in rank to such Officer and is above the rank of Constable or when the Government so directs, any other police officer so present.

6. The State Government under notification No. F. 14/1/4/HA/57 dated 15-7-1957 published in Rajasthan Gazette Extraordinary of part-4 (Ga) in exercise of the powers conferred by clause (s) of Section 4 of the Code of Criminal Procedure, 1898, and all other powers enabling in this behalf was pleased to declare the office of the Special Inspector General of Police, Anti Corruption, Rajasthan at Jaipur to be a Police Station, which will be known as the Anti Corruption Police Station and whose territorial jurisdiction shall extend over the whole of the area of the State of Rajasthan and also directed that the aforesaid police station shall deal with all cognizable offences relating to bribery and corruption including criminal breach of trust, criminal misappropriation and criminal misconduct, in which a public servant is also involved. It is common knowledge that necessity for the aforesaid notification arose because Anti Corruption Department was created by the State of Rajasthan and a post of Inspector General of Police was created and senior Police Officer was posted. Therefore there can be no doubt that in Rajasthan there is Anti-Corruption Police Station at Jaipur. Police Station is defined Under Clause (s) of Section 2 of the new code and was also defined under the old code, and means any post or place declared generally or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf. As

stated earlier the entire State of Rajasthan is a local area so far the Anti Corruption Police Station is concerned. Yet another notification dated 15-7-1987 was issued and its number is F/14/1/4/HA/57. It was issued by the State Government in pursuance of clause (P) of Section 4 read with Sections 156 and 551 of, the Code of Criminal Procedure, 1898 (old code) and all other powers enabling this behalf. The State Government was pleased to direct that the powers of an Officer-in-charge, of a Police Station shall be exercisable by all Officers of and above the rank of a Sub-Inspector of Police in the Anti Corruption Branch of the Rajasthan Police Force with respect to the Anti Corruption Police Station as notified under the above referred two notifications. It can, therefore, be said that the definition of Officer-in-charge of Police Station "as well as of Police station was the same which is in Section 2(o) and (s) respectively, In my opinion, therefore, it can be said that all the officers of the Anti Corruption Department of Rajasthan above the rank of Sub-Inspector of Police can exercise the powers of officer-in-charge of the police station. Therefore, the Addl. S.P., A.C.D. (Rural) Jaipur being an officer of the rank of Additional S.P. of the Anti Corruption Branch of the Rajasthan Police force shall also be an officer in-charge of the police station so far as Anti-Corruption Department is concerned.

7. I am therefore, of the opinion that the Addl. S.P. (Rural) Anti Corruption Branch of the Rajasthan Police Force is and was officer-in-charge of a police station, and therefore, u/s 156, Cr. PC he could have filed a report to the Special Judge, A.C.D. Cases.

8. It may be stated that the Presiding Officer Mr. M.C. Verma has taken a perverse view on the eve of his retirement. This view cannot be sustained.

9. I, hereby allow this revision petition, set aside the, impugned order dated 14-3-1989 of the learned Special Judge, A.C.D. Cases, Rajasthan, Jaipur. The order of discharge is set aside. The case will now go back to the learned Judge, A.C.D. Cases, who shall try the case in accordance, with law. The accused non-petitioner is not present. His, counsel is directed to get his client present before the learned Special Judge, A.C.D., Cases, Jaipur, on 18-12-1989.