
(1991) 05 DEL CK 0062

In the Delhi High Court

Case No : Criminal Revision Appeal No. 129 of 1990

Taxmaco Ltd. Prop. of Birla Textiles

APPELLANT

Vs

Ram Dayal and Another

RESPONDENT

Date of Decision : 17-05-1991

Acts Referred:

Companies Act, 1956 — Section 630

Citation : (1993) 78 CompCas 518 : (1991) 44 DLT 641 : (1990) 2 ILR Delhi 332

Hon'ble Judges : V.B. Bansal, J

Bench : Single Bench

Advocate : Harvinder Singh, Sanjeev Sabharwal, Y.D. Nagar, A.C. Bhasin and B.K. Sharma, for the Appellant;

Judgement

V.B. Bansal, J.

(1) By this order I shall dispose of Criminal Revision Nos. 129 to 132, 134 to 140 and 142 to 155 of 1990 since a common question arises in these cases, namely, whether the impugned order dated 12th February, 1990 of an Additional Sessions Judge, Delhi directing the stay of the proceedings pending before Addl. Chief Metropolitan Magistrate, Delhi under Sec. 630 of the Companies Act needs interference by this Court.

(2) M/S Texmaco Ltd. "for short the Company) is a public limited company incorporated under the Companies Act, 1956. It had a housing colony for the benefit of its employees which were earlier owned by M/s Birla Cotton, Spinning & Weaving Mills Limited. However, subsequently by virtue of a scheme of arrangement M/s Birla Cotton, Spinning & Weaving Mills Ltd. became the property of M/s Texmaco Limited. Employees of Birla Cotton ,Spinning and Weaving Mills became the employees of M/s Texmaco Limited. Ram Dayal was allotted a quarter vide letter dated 9th October, 1976 with a stipulation that he would continue to be in occupation of the same during the period he was in service. Ram Dayal retired from service on 24th February 1989 and after his retirement he did not hand over the possession of the quarter to the Company

and in this way he is stated to have committed an offence under Sec. 630 of the Indian Companies Act besides other offences under Indian Penal Code. After recording preliminary evidence the ex-employee Ram Dayal was summoned as an accused by an Addl. Chief Metropolitan Magistrate vide order dated 29th November. 1988.

(3) On an application moved by Ram Dayal an order dated 30th September, 1989 was passed by Addl. Chief Metropolitan Magistrate, Delhi directing that the proceedings in this case will continue but the Judgment in this case will not be announced until this court find out that the civil case filed by the accused is mala fide and bona fide or till civil court gives it final verdict. This order was challenged by; Ram Dayal before the Addl. Sessions Judge, Delhi who vide impugned order that the proceedings before the Addl. Chief Metropolitan Magistrate shall stand stayed till the decision of the civil litigation between the parties.

(4) I have heard learned counsel for the parties and have also gone through the records.

(5) It has been submitted by learned counsel for the petitioner that similar petitions were filed by the petitioners against the ex-employees of the Company and an order similar to the impugned order passed by the Addl. Sessions Judge was challenged and the revision petitions were accepted with a direction that the pleas taken up by the ex-employees would be gone into by the trial Court. He has referred to the judgment in Criminal Revision No. 67 of 1990 M/s Texmaco Ltd. Prop of M/s Birla Textiles v. Arun Kumar Sharma & Anr. decided on May 25, 1990. He has also submitted that SLP against the said judgment being No. 1660-68 was dismissed by the Supreme Court on 30th October, 1990.

(6) These facts are not controverted by learned counsel for the respondent.

(7) It has, however, been submitted by learned counsel for the respondent that there are additional pleas which have been taken by the respondents regarding which an application has been moved before the trial Court and the same pleas have also been raised here by way of additional pleas. These pleas are not being adjudicated upon in this revision petition and the trial Court would be taking up the pleas taken up by the parties for adjudication in accordance with law. It is, thus, not disputed that the criminal proceedings cannot be stayed merely on account of the pendency of the civil litigation between the parties.

(8) In these circumstances the revision petitions are allowed and the impugned order dated 12th February, 1990 passed by Addl. Sessions Judge, Delhi stands set aside. The Trial Court shall now proceed further in accordance with law.

(9) Parties to appear before the trial Court on 21st June, 1991.