
(2005) 02 AHC CK 0146
In the Allahabad High Court
Case No : Criminal Revision No. 214 of 2003

Vijay Bahadur Singh

APPELLANT

Vs

Special Session Judge, Dehradun & Anr.

RESPONDENT

Date of Decision : 19-02-2005

Acts Referred:

Prevention of Corruption Act, 1988 — Section 19

Citation : (2005) 02 AHC CK 0146

Hon'ble Judges : B.C.Kandpal, J

Final Decision : Dismissed

Judgement

B.C. Kandpal, J.—This criminal revision has been preferred against the order dated 15112003 passed by the Special Judge (Anticorruption), Dehradun by which the Court below has rejected the objection raised by the revisionist regarding the validity of the sanction granted by C.B.I.

2. Brief facts of the case that give rise to the present revision are that the C.B.I. submitted the chargesheet against the revisionist alongwith other person under Sections 120B/420/467/ 468/471 I.P.C. and 13 (2) read with 13A (D) of Prevention of Corruption Act, 1988.

3. The revisionist alongwith other coaccused was summoned by the Court and charges were framed against him.

4. The revisionist Vijay Bahadur Singh challenged the sanctioned order passed by Sri Vijay Mathur, Director of Income Tax (Investigation) who was examined by the Court as P.W. 1.

5. The matter was challenged earlier and this Court directed that P.W. 1 Vijay Mathur be reexamined relating to the validity of the sanction.

6. Vijay Mathur P.W. 1 was reexamined and, thereafter, the learned Court below heard the revisionist on the point of the sanction. The Court below dismissed the objection raised by the revisionist regarding the validity of the sanction by order

dated 15112003.

7. Feeling aggrieved by the impugned order, the accused Vijay Bahadur Singh preferred the revision which has been placed before me for disposal.

8. I have heard learned Counsel for the revisionist as well as learned Counsel for the C.B.I. and perused the record.

9. Learned Counsel for the revisionist has argued that the sanction order appears to be mechanical one and from the perusal of the same, it appears that the sanctioning authority did not apply its mind at all. It has also been submitted that the date is as 2211997 under the signature of Vijay Mathur and on this date he was not an appointing authority of the accused as he had already been transferred to another department. Hence, the sanction order dated 2211997 is not a valid sanction.

10. It has also been submitted that Sri Vijay Mathur while according the sanction did not put his seal under his signature. It has also been submitted that from no stretch of evidence it could be held that the sanction order was in fact passed on 152 1996.

11. I have carefully gone through the sanction order as well as the statement of P.W. 1 Vijay Mathur and have also heard the arguments of both the sides in this regard.

12. P.W. 1 Vijay Mathur has repeatedly reiterated that he signed the sanction order on 1521996 and on that date he was the appointing authority. He has also stated that on 2211997 he did not pass any sanction order but he put his signature on all the pages as on that date the sanction order was placed before him for signing each and every page.

13. Signing the sanction order on every page by Vijay Mathur on 2211997 was merely a formality and on the basis of the same, it cannot be said that the sanction order was in fact passed on 22 11997.

14. Record clearly reveals that the sanction order was passed on 1521996 and on that date Vijay Mathur was the appointing authority of the accused/revisionist.

15. Learned apex Court in a decision cited in 2005(1) JIC 37 (SC) : (2004) 7 SCC 763: AIR 2004 SC 5117, State v. T. Venkatesh Murthy, has clearly observed that ? merely because there is any omission, error or irregularity in the matter of according sanction that does not affect the validity of the proceedings unless the Court records the satisfaction that such error, omission or irregularity has resulted in a failure of justice.?

16. In the instance case, I do not find any such error, omission or irregularity in the order according sanction which has resulted in failure of justice.

17. The Hon''ble apex Court has further observed that ?A combined reading of subsection (3) and (4) of Section 19 of the Prevention of Corruption Act, 1988

makes the position clear that notwithstanding anything contained in the Criminal Procedure Code, 1973, no finding, sentence and order passed by a Special Judge shall be reversed or altered by a Court in appeal or revision on the ground of the absence of, or any error, omission or irregularity in the sanction required under subsection (1), unless in the opinion of that Court a failure of justice has in fact been occasioned thereby.?

18. Further, Clause (b) of subsection (3) shows that no Court shall stay the proceedings under the Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice.

19. Considering the aforesaid circumstances, I am of the view that the present revision being devoid of any merit is liable to be dismissed. I do not find any ground to interfere in the impugned order passed by the Court below.

20. The revision is accordingly dismissed.

21. The trial Court is directed to proceed further in the matter.