

State of Punjab

Vs

M. L. Puri

and

State of Haryana

Vs

M. L. Puri

Criminal Appeals Nos. 95, 96 And 97 Of 1971

(M. H. Beg, A. Alagiriswami JJ)

14.02.1975

JUDGMENT

ALAGIRISWAMI, J. –

The appeal before it was disposed of by the Punjab and Haryana High Court solely on the ground that the sanction to prosecute the respondent was not given by the Governor. Since then this Court has decided in Samsher Singh's case that the Governor need not look into any matter personally if the Rules of Business made under Article 166 empower any officer of the Government to deal with the matter. All the same Mr. Sanghi appearing on behalf of the respondent urges that the question whether there was a valid sanction to prosecute the respondent should be gone into by this Court. He urges that during the period when the sanction was given the Haryana State was under President's rule and therefore Article 166 was not in force and the Governor himself would have had to see the case and sanction it. On the other hand it is stated on behalf of the appellants that this case had been seen by the Chief Minister earlier and he had sanctioned the prosecution and all that remained was a formal order embodying that decision and it was that order which had been signed by the Chief Secretary during the period when Haryana was under President's rule. There are, however, no materials on record to show whether the Chief Minister had seen it because on the earlier occasion when the question of the validity of the sanction was at issue, the matter was decided purely on the basis that the Governor had not seen it. In view of the decision in Samsher Singh's case (supra), validity of the sanction will have to be decided both on the basis whether the Chief Minister had seen the case as also on the basis whether that the Chief Secretary could be said to have made the sanction order. We say nothing as to whether the prosecution would be entitled to let in any fresh evidence as to whether the Chief Minister had sanctioned the prosecution originally. We therefore consider it proper that the High Court should consider all these matters and also deal with the case on merits and dispose of it afresh. There are three appeals before this Court; one by the Government of Punjab and the other by the Government of Haryana against the judgment of the High Court holding that there was no valid sanction. There is also an appeal by the Haryana Government against the order of the High Court holding that the Haryana Government was not entitled to a certificate. In the view we are taking we do not think it necessary to decide that appeal. That appeal

will therefore be dismissed.

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