

State of Tamil Nadu

Vs

Damodaran

(Kuldip Singh, Yogeshwar Dayal JJ)

Criminal Appeal No. 492 of 1990

29.11.1991

JUDGMENT :-

1. Damodaran, the respondent before us, was convicted by the Special Judge under S. 5(1)(d) read with S. 5(2) of the Prevention of Corruption Act, 1947 and S. 161, I.P.C. He was sentenced to undergo rigorous imprisonment for one year and a fine of Rs. 100/-. On appeal, the High Court did not find fault with the appreciation of evidence by the trial Court and agreed with the reasoning and conclusions reached by the Special Judge. The High Court, however, entertained an additional point regarding the validity of the sanction granted by the appointing authority to prosecute the respondent and came to the conclusion that there was no application of mind by the said authority and on that ground acquitted the respondent. The High Court reasoning is reproduced as under:-

"In order to satisfy myself with respect to the contention raised by the learned counsel for the appellant, I sent for the records. A perusal of the letter dated 25-4-90 written by the Director of Vigilance and Anti-Corruption to the Revenue Divisional Officer, Chidambaram, who accorded the sanction to prosecute the appellant shows that the state-merits under S. 162 of the Code of Criminal Procedure recorded from the witness have not been placed before the Authority who sanctioned prosecution. In fact, the letter shows that the Director of Vigilance and Anti-Corruption has enclosed model sanction orders so as to enable the Revenue Divisional Officer to draft sanction order in those lines. On a perusal of the records placed before me, I am satisfied that the Authority who sanctioned the prosecution has not accorded sanction applying his mind but has granted the order mechanically without going through the material records gathered by the prosecution.

2. The only point raised by the learned counsel for the State of Tamil Nadu is that the High Court has misread the letter dated April 25, 1979. The learned counsel has produced before us the original records. We have examined the records and gone through the letter dated April 25, 1979. The letter runs into 21 pages. It has been divided into various parts. Part IV of the letter contains the genesis of the enquiry and the proceedings of the trap. Part V brings out the allegations in a precise form. Thereafter, Part VI contains the oral and the documentary evidence relied upon by the prosecution. The statements recorded under S. 162, Criminal Procedure Code of Mathiyalagan, Thirugnasambandam, Ramaiah, Ramchandra Padyachi and G. Ramyanajulu have been reproduced in detail. All these persons appeared as prosecution witnesses at the trial. The letter also details the documentary evidence relied upon by the prosecution. The First Information Report in original has been annexed.

3. We are of the view that the High Court was not justified in reaching the conclusion that the

sanctioning authority granted sanction mechanically and without application of mind. The statement of witnesses recorded under S. 162, Criminal Procedure Code were reproduced in detail in the letter dated April 25, 1979. We are satisfied that all the relevant material was before the sanctioning authority and he granted sanction after fully applying his mind. We see no infirmity in the order granting the sanction. We, therefore, allow the appeal, set aside the judgment of acquittal rendered by the High Court and restore that of the trial Court. We convict respondent Damodaran under S. 5(1)(d) read with S. 5(2) of the Prevention of Corruption Act, 1947 and S.,161 of the Indian Penal Code. He is sentenced to undergo one year's rigorous imprisonment and also to pay a fine of Rs. 1 00 / - (Rupees one hundred). In default of payment of fine he shall undergo further imprisonment for one month.

Appeal allowed.

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