

Ramanand Chaudhary

Vs

State of Bihar and others

Criminal Appeal No. 198 of 1992

(Kuldip Singh, N. M. Kasliwal JJ)

07.08.1992

JUDGMENT

1. Ramanand Chaudhary, the appellant, was employed as Circle Inspector in the Revenue Department of the State of Bihar. One Manik Singh filed a complaint before the police that the appellant had demanded Rs. 200/- from him as bribe for getting his work done in the Revenue Department. As a consequence a raid was conducted on March 30, 1979 and it is alleged that two currency notes of the value of one hundred each were recovered from the appellant. Thereafter no further action was taken by the police for about six years and it was only on January 28, 1985 that the opinion of the Public Prosecutor was sought by the Revenue Commissioner to enable him to consider the question of grant of sanction for the prosecution of the appellant. In a detailed opinion running into 17 pages the Public Prosecutor discussed the material collected by the Investigating Officer and finally came to the conclusion as under :

"Taking into account the facts and law stated above, I am of the opinion that the present case is full of absurdities, probabilities and infirmities and it is not a fit case in which sanction for prosecution be granted."

2. The Revenue Commissioner, Patna considered the opinion of the Public Prosecutor and by his order dated May 3, 1988 refused to grant the sanction. The said order runs as under :

"Regarding the aforesaid subject and your letter Nig. 23/79 Nig. 1016 dated 17-2-1988 I have to say that I am satisfied after going through the case diary and other papers that there is neither sufficient cause to order for prosecution against Shri Ramanand Chaudhary, Circle Inspector, Nasariganj, Dist. Rohtas upon which basis the order of sanction for prosecution be issued against him.

Therefore, it is not possible to allow sanction for prosecution against Shri Ramanand Chaudhary, Circle inspector, Nasariganj, Dist. Rohtas in vigilance P.S. Case No. 23(3) 79."

3. The Deputy Inspector General of Police (Vigilance) reopened the matter and by his letter dated August 25, 1989 requested the Revenue Commissioner to reconsider the question of the prosecution of the appellant. The Commissioner again asked for the opinion of the Public Prosecutor who reiterated his earlier opinion and by his letter dated March 22, 1990 opined that the case against the appellant was not a fit case for Criminal Prosecution. He, however, recommended that departmental

action may be taken against him. The Revenue Commissioner, however, by his order dated March 27, 1990 granted sanction to prosecute the appellant. The Special Judge (Vigilance), South Bihar, Patna took cognizance of the case on November 21, 1990. The appellant invoked the jurisdiction of the High Court under Section 482, Criminal Procedure Code praying for the quashing of criminal proceedings against him. The High Court dismissed the application in limine.

4. Mr. R. K. Jain, learned Counsel for the appellant has challenged the criminal prosecution against the appellant, inter alia, on the ground that the Revenue Commissioner having refused to grant sanction in the first instance had no jurisdiction to review the said order and grant sanction by a subsequent order. In any case, according to him, before reviewing the earlier order it was obligatory for him to have afforded an opportunity of hearing to the appellant.

5. It is not necessary to go into the legal points raised by Mr. Jain as we are inclined to quash the prosecution against the appellant in the peculiar facts and circumstances of this case. After the raid no action was taken by the prosecution for six years. The Public Prosecutor consistently opined that no criminal case was made out against the appellant. The Commissioner on independent consideration refused to grant the sanction but later on at the asking of the DIG (Vigilance) he changed his view. The prosecution against the appellant is pending for over a period of thirteen years and it would be travesty of justice to permit the prosecution at this stage which would mean that the appellant would suffer the trial/appeal for another decade. In view of the facts and circumstances of this case we quash the prosecution pending against the appellant and also the proceedings before the Special Judge (Vigilance South Bihar), Patna who took cognizance of the case on November 21, 1990. Appeal allowed.

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