

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2019
(Arising out of Special Leave Petition (Crl.) No. 9516 of 2018)

MUKESH KUMAR ...Appellant

Versus

DR. MANORANJAN, EX-SECRETARY AND ORS. ...Respondents

O R D E R

Leave granted.

Pursuant to complaint filed by the appellant alleging commission of offences punishable under Sections 420, 468, 471, 166, 167, 120B read with Section 34 IPC and under Sections 7 & 10 of Civil Rights Act, 1955, the Magistrate had issued summons on 06.05.2008 to eleven accused persons. According to the appellant who was an employee of Steel Authority of India Ltd., he was harassed by his superiors and denied certain service benefits and as such those superiors were guilty of the alleged offences.

The order passed by the Magistrate was challenged by said eleven accused persons in a Revision, which was allowed by the Revisional Court on the ground that there was no requisite sanction under Section 197 CrPC and therefore the Magistrate was not competent to take cognizance of the complaint and issue summoning order.

His challenge to the order passed by the Revisional Court having been negated by the High Court, the appellant has approached this Court in this appeal.

The appellant relied upon the judgment of this Court in ***Mohd. Hadi Raja vs. State of Bihar and Anr.*** (1998) 5 SCC 91 in support of his submission that Section 197 CrPC would not get attracted in the present matter.

Mr. Maninder Singh, learned Senior Counsel submitted that Accused No.1 being Secretary, Government of India, was certainly entitled to protection under Section 197 CrPC and as regards other accused, even if it be assumed that they were not entitled to such protection, there would be no justification to allow the complaint to be proceeded with. According to him, the matter was squarely covered by the seventh principle in the matter of ***State of Haryana vs. Bhajan Lal*** 1992 Supp (1) SCC 335 (para No.102). In this connection, from the affidavit in reply, more particularly paragraphs 21 to 40, he pointed out that all the grievances of the appellant including issues of transfer, promotion as well as issues of termination were addressed at various levels departmentally or before the Competent Courts.

Writ Petition No.18097 of 2006 filed by the appellant in relation to his claim for promotion was dismissed as withdrawn by the High Court of Delhi on 17.09.2008. His Writ Petition No.8026 of 2006 seeking quashing of his transfer was dismissed by the High Court of Delhi on 04.10.2006, which decision was affirmed by the Division Bench while dismissing Letter Patents Appeal on 01.04.2008. The allegations of mala fides or extraneous consideration were expressly rejected.

Writ Petition No.7204 of 2009 preferred by the appellant challenging his

termination order dated 28.01.2009 was dismissed as withdrawn by the High Court of Delhi on 02.03.2009. Thereafter the appellant preferred an appeal seeking review of his order of termination before the Chairman, Steel Authority of India Limited. Accepting his plea, he was allowed to resign.

It is therefore clear that the grievances raised by the appellant stand addressed by the Department and/or by the Competent Courts and the allegation that the appellant was deliberately denied those benefits by the accused is without any substance.

In the circumstances, though we do not agree with the view taken by the Revisional Court and the High Court as regards applicability of Section 197 CrPC, having gone through the allegations made in the complaint and the material on record, we do not see any reason why the complaint be allowed to be proceeded with.

In our considered view, allowing said complaint to be proceeded with would not serve any purpose except protracted litigation and undue harassment and would not be in the interest of justice. We, therefore, dismiss this appeal.

Pending applications, if any, also stand disposed of.

.....J.
[UDAY UMESH LALIT]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;
JANUARY 18, 2019.

ITEM NO.39

COURT NO.8

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 9516/2018

(Arising out of impugned final judgment and order dated 07-07-2017 in CRLMC No. 2004/2009 passed by the High Court Of Delhi At New Delhi)

MUKESH KUMAR

Petitioner(s)

VERSUS

DR.MANORANJAN EXSECRETARY & ORS.

Respondent(s)

(Applications for Permission to argue in person & to file addl. Documents/facts/annexures.

Date : 18-01-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT

HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Maninder Singh, Sr. Adv. (R-1)
Mr. B. K. Satija, AOR
Sh. Prabhas Bajaj, Adv.
Mr. Parangat Pandey, Adv.
Ms. Ashita Chawla, Adv.
Ms. Saumya Dasgupta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Permission to argue in person is granted.

Leave granted.

The appeal is dismissed in terms of the signed order.

Pending applications, if any, shall also stand disposed of.

(INDU MARWAH)
COURT MASTER

(SANTOSH KUMAR)
BRANCH OFFICER

(signed order is placed on the file)