

Case Description:

P.Sathasivam, CJI.

Order dated 29.06.2012 passed by the High Court of Judicature at Bombay in Criminal Writ Petition No. 220 of 2010 wherein the High Court quashed the criminal proceedings against Alok Ranjan-Respondent No.3 herein (writ petitioner in the High Court) in C.C. No. 1036/CPW/2008 pending before the Metropolitan Magistrate, 19th Court, Esplanade, Mumbai.

3) Brief facts:

(a) The appellant, an Indian Revenue Service Officer, joined National Agricultural Co-operative Marketing Federation of India Ltd. (NAFED), on deputation on 15.07.2003 as an Executive Director.

(b) On 01.10.2003, Respondent No.3 herein—Alok Ranjan took over the charge as the new Managing Director of NAFED and he approved the 1st Non-agricultural tie-up of NAFED on 13.10.2003 in order to diversify NAFED's business activities to cope up from severe financial crunch so that income from other businesses can compensate the losses being made on trading of agricultural items. Respondent No. 3 participated in all the meetings and approved all the transactions entered into with M/s Swarup Group of Industries (SGI) for the above said purpose.

(c) On 20.04.2004, when the Respondent No. 3 was scheduled to go for an international tour to Beijing, the appellant was made the officiating Managing Director for 21.04.2004 to 27.04.2004 in order to attend all urgent matters.

(d) In January 2006, a public interest litigation was filed against NAFED before the Delhi High Court on the allegations of misappropriation of funds by its officials in non-agricultural business. The Government of India, in its reply, stated that CBI enquiry will be conducted. In the affidavit filed by NAFED, it was again reiterated that all the transactions were bona fide.

(e) Anticipating pressure of CBI, Respondent No. 3 directed Mr. M.V. Haridas, Manager (Vigilance and Personnel) to lodge a complaint against SGI and, accordingly, a complaint was lodged before the CBI Economic Offences Wing (EOW), Mumbai.

(f) The CBI filed a charge-sheet dated 15.12.2008 against the appellant herein and Respondent No.3 along with other accused for committing offense under Section 120B read with Sections 409, 411, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (in short 'the IPC').

(g) At this stage, Respondent No.3 preferred a petition being Criminal Writ Petition No. 220 of 2010 for discharge before the High Court under Section 482 of the Code of Criminal Procedure, 1973 (in short 'the Code') read with Article 226/227 of the Constitution of India.

(h) By impugned order dated 29.06.2012, the High Court accepted the case of Respondent No.3 herein and allowed his petition.

(i) Being aggrieved by the impugned judgment of the High Court, the appellant moved before this Court. Since the appellant herein was not a party before the High Court, this Court, by order dated 19.03.2013, granted him permission to file special leave petition.

4) Heard Mr. Shekhar Naphade, learned senior counsel for the appellant, Mr. P.P. Malhotra, learned Additional Solicitor General for Respondent No.2-CBI, Mr. Kailash Vasdev, learned senior counsel for the contesting Respondent No.3, and Ms. Asha Gopalan Nair, learned counsel for the State of Maharashtra.

7) We have carefully considered the rival submissions and perused the relevant materials.

18) Inasmuch as admittedly the appellant was not impleaded/shown as one of the parties before the High Court, the specific finding against his alleged role, based on the submissions of Respondent No.3 herein without giving an opportunity of being heard, cannot be sustained.

19) In the light of what is stated above, the impugned judgment dated 29.06.2012 in Criminal Writ Petition No. 220 of 2010 is set aside, and the matter is remitted to the High Court for fresh disposal.

20) In view of our conclusion, the appellant herein – Homi Rajvansh be impleaded as Respondent No. 4 in Criminal Writ Petition No. 220 of 2010, and we request the High Court to hear the matter afresh after affording opportunity to all the parties including the newly impleaded party, and dispose of the same as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this judgment.

21) The appeal is allowed on the above terms.