

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Dost Muhammad Khan
Mr. Justice Sajjad Ali Shah

Criminal Appeals No. 430 to 432, 442, 446, 447 and 495 of 2017

(Against the orders dated 26.01.2016, 29.01.2016 & 03.02.2016 passed by the Lahore High Court, Rawalpindi Bench, Rawalpindi in Criminal Appeals No. 523, 438, 439, 494, 520, 440 and 437 of 2015)

The State through Prosecutor-General, Punjab
(in all cases)

...Appellant

versus

Jahangir Akhtar
Muhammad Dilpazeer
Muhammad Ayub
Majid Ali
Ghalib Hussain
Bunyad Hussain
Arshad Mehmood

(in Cr. A. 430 of 2017)
(in Cr. A. 431 of 2017)
(in Cr. A. 432 of 2017)
(in Cr. A. 442 of 2017)
(in Cr. A. 446 of 2017)
(in Cr. A. 447 of 2017)
(in Cr. A. 495 of 2017)

...Respondents

For the appellant:

Mr. Muhammad Jaffar, Deputy
Prosecutor-General, Punjab
(in all cases)

For the respondents:

Mr. Tanvir Iqbal, ASC
Syed Rifaqat Hussain Shah, AOR
(in all cases)

Date of hearing:

17.01.2018

JUDGMENT

Asif Saeed Khan Khosa, J.: The respondents in these appeals had allegedly obtained employment in the police department on the basis of fake and forged School Leaving

Certificates and upon discovery of such forgery and fabrication they were not only compulsorily retired from service but were also proceeded against on the criminal side through registration of different FIRs. The respondents applied before the trial court under section 249-A, Cr.P.C. seeking their premature acquittal and the trial court acquitted them of the charge upon acceptance of such applications which orders of the trial court were subsequently upheld by the High Court through dismissal of different appeals filed by the State against the respondents' acquittal. Hence, the present appeals by leave of this Court granted on different dates.

2. The impugned orders passed by the trial court in the respondents' cases show that the trial court was labouring under a misconception that on account of compulsory retirement of the respondents from service they could not be criminally prosecuted for the same matter as such prosecution was to amount to double jeopardy attracting the provision of Article 13(a) of the Constitution of the Islamic Republic of Pakistan, 1973 and section 403, Cr.P.C. and even the High Court had agreed with the said opinion. It had not been appreciated by the courts below that disciplinary action taken by a department and criminal prosecution are quite distinct from each other and can proceed simultaneously or one after the other and such separate actions do not attract the principle of double jeopardy. It has already been clarified by this Court in many a precedent case that disciplinary proceedings are meant solely for maintaining and ensuring purity of service whereas criminal prosecution is meant to punish a person for the offence committed by him and that in a proper case departmental and criminal proceedings can proceed simultaneously or one after the other. A reference in this respect may be made to the cases of M/s Hindustan Tin Works Pvt. Ltd., v. The Employees of M/s. Hindustan Tin Works Pvt. Ltd. And others (AIR 1979 SC 75), Muhammad Sardar Khan v. Senior Member (Establishment), Board of Revenue, Punjab, Lahore (1985 SCMR 1062), The Deputy Inspector-General of Police, Lahore and others v. Anis-ur-Rehman Khan (PLD 1985 SC 134), Abdul Sattar v. Government of the Punjab through Additional

Inspector-General of Police, Lahore and others (1987 SCMR 745), Muhammad Ayub v. The Chairman, Electricity Board, WAPDA, Peshawar and another (PLD 1987 SC 195), The Superintendent of Police, Faisalabad and others v. Muhammad Iqbal (1988 SCMR 1792), Ghulam Ghaus v. The Chief Engineer, WAPDA, Faisalabad Region, Faisalabad and another (1989 SCMR 1139), Abdul Rehman v. The Chief Engineer, Sargodha Electricity, Sargodha and others (1989 SCMR 1178), Mian Bashir Ahmed v. Board of Revenue, Punjab (1989 SCMR 1427), Muhammad Tufail v. Assistant Commissioner/Collector (1989 SCMR 316), Amir Abdullah v. Superintendent of Police, and others (1989 SCMR 333), Muhammad Sarwar v. Assistant Commissioner/Collector, Tehsil Ferozewala and 3 others (NLR 1989 Service 81), Muhammad Rafiq v. Province of the Punjab and another (1990 SCMR 1143), Dawood Ali v. Superintendent of Police and others (2005 SCMR 948), Syed Aqleem Abbas Jafari v. Province of Punjab through Secretary, Irrigation Department and others (2005 SCMR 1901), Nazir Ahmed v. Capital City Police Officer, Lahore and another (2011 SCMR 484) and Muhammad Iqbal v. District Police Officer, Sahiwal and another (2011 SCMR 534). We have further observed that the provisions of section 249-A, Cr.P.C. could have been invoked only where the charge was groundless or there was no probability of conviction of the accused person and none of those factors were attended to by the courts below in these cases while acquitting the respondents or upholding their acquittal.

3. For what has been discussed above all these appeals are allowed, the impugned orders passed by both the courts below are set aside, the status of the respondents as accused persons in the relevant criminal cases is restored and the trial court is directed to proceed with their trials in accordance with the law. It may be clarified that if the respondents were on bail at the time of their acquittal then they shall submit fresh bail bonds before the trial court and if they were not on bail at the time of their acquittal then they shall be arrested and shall be dealt with in accordance with

the law. The bail bonds and sureties of the respondents furnished in connection with the present appeals shall stand discharged.

Judge

Judge

Judge

Islamabad

17.01.2018

Approved for reporting.

Arif