

Sohan Lal Kohli vs State Of Uttarakhand on 4 January, 2022

Author: Ravindra Maithani

Bench: Ravindra Maithani

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 1961 of 2021

Sohan Lal Kohli

..... Petitioner

Vs.

State of Uttarakhand

..... Respondent

Present : Mr. M.K. Goyal, Advocate for the petitioner.

Mr. Lalit Miglani, A.G.A. with Mr. Rohit Dhyani and Ms. Sonika
Khulbe, Brief Holders for the State.

JUDGMENT

Hon'ble Ravindra Maithani, J. (Oral) Challenge in this petition is made to the charge under Sections 120-B, 420, 409 IPC framed against the petitioner in Criminal Case No.288 of 2016, State vs. Sohan Lal and others, by the court of Chief Judicial Magistrate, New Tehri, Tehri Garhwal (for short, "the case").

2. Heard learned counsel for the parties and perused the record.

3. The prosecution case is as follows. An FIR was lodged against the petitioner and others with the averments that they misappropriated `2,85,600/-, which was meant for the disbursement to the beneficiary of Swajal Project. According to the FIR, at the relevant time, the petitioner was working as Assistant Block Development Officer. Co-accused Balveer Lal was working as Village Development Officer. It is this FIR, in which after investigation, charge-sheet was submitted and proceedings of the case has been initiated. In the case, after the stage of framing of the charge, arguments were advanced on behalf of the petitioner, but the court by the order dated 15.02.2020, observed that there are sufficient grounds to frame charges under Sections 120-B, 420, 409 IPC against the petitioner. This order dated 15.02.2020, passed in the case has been unsuccessfully challenged by the petitioner in Criminal Revision No. 2 of 2020, Sohan Lal Kohli vs. State of Uttarakhand, which was decided on 23.11.2021 by the court of Additional District and Sessions Judge, Tehri Garhwal. On 13.10.2020, charges under Sections 120-B, 420, 409 IPC have been framed against the petitioner. In fact, the record reveals that the prosecution has started adducing evidences.

4. Learned counsel for the petitioner would submit that, in fact, the amount was withdrawn under the signature of co-accused Balveer Lal and the petitioner. Both were on the same footing. The amount so withdrawn for disbursement amongst the beneficiary of Swajal Project, was handed over by the co-accused Balveer Lal to the Ex-Village Gram Pradhan, Kunwar Singh Aswal.

5. It is argued that, in fact, Kunwar Singh Aswal also did not misappropriate this amount. Instead, by a Resolution No.4, dated 14.07.2014 of the Village Gram Sabha, it was resolved that this amount shall be utilized for construction of the Panchayat Ghar.

6. Learned counsel for the petitioner would also submit that, in fact, co-accused Balveer Lal had challenged the proceedings against him under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code"). He did not get any relief from the High Court, therefore, he challenged the matter before the Hon'ble Supreme Court in Criminal Appeal No.88 of 2018, Balveer Lal vs. State of Uttarakhand and another (for short, "the appeal"). The appeal was decided by the Hon'ble Supreme Court on 05.01.2018 and the proceeding against the co-accused Balveer Lal has been quashed.

7. It is argued that the case of the petitioner is on the better footing than the co-accused Balveer Lal. Therefore, it is a case of discharge of the petitioner and the court below committed an error in framing charges.

8. Learned State counsel would submit that, in fact, there are no grounds for framing charge. The case of the petitioner is on the better footing than the co-accused Balveer Lal, proceedings against him has already been quashed by the Hon'ble Supreme Court.

9. It is the prosecution case that the amount of `2,85,600/- was withdrawn under the joint signatures of the petitioner and co-accused Balveer Lal. It is the case in the charge-sheet that the co-accused Balveer Lal handed over this money to Ex-Gram Pradhan, Kunwar Singh Aswal. In the judgment dated 05.01.2018, passed in the appeal, the Hon'ble Supreme Court on this aspect observed, "It could not be disputed by the learned counsel for the respondent-State that insofar as the appellant is concerned, in his capacity as Village Development Officer, he was to hand over the said amount to the Pradhan and therefore, the Pradhan was to distribute the same to the beneficiaries. Thus, insofar as the appellant is concerned, no unlawful act can be attributed on his part in the light of the admitted documents and even as per the chargesheet. Therefore, there was no reason to frame charge against the appellant or to pass summoning order against the appellant."

10. Undoubtedly, the case of the petitioner is at the better footing than that of the co-accused Balveer Lal. The money was handed over to the Ex-Gram Pradhan by the Balveer Lal. Therefore, this Court is of the view that there is no reason to proceed further against the petitioner. There has been no ground to frame charges against him. Accordingly, the petition deserves to be allowed and the charges framed against the petitioner deserves to be quashed.

11. The petition is allowed. The charges against the petitioner under Sections 120-B, 420, 409 IPC are quashed. Accordingly, the proceeding of the case is quashed qua the petitioner.

(Ravindra Maithani, J.) 04.01.2022 Sanjay