SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

State Vs. Hazari Lal Khanna

State Vs. Hazari Lal Khanna

SooperKanoon Citation : sooperkanoon.com/688982

Court : Delhi

Decided On : Aug-22-1985

Reported in : 28(1985)DLT453; 1985(9)DRJ255

Judge : G.R. Luthra, J.

Acts : Indian Penal Code (IPC), 1860 - Sections 405; Code of Criminal Procedure (CrPC) , 1973 - Sections 482

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 1116 of 1984

Appellant : State

Respondent : Hazari Lal Khanna

Advocate for Pet/Ap. : R.P. Lao,; K.K. Sud and; Rajiv Chauhan, Advs

Judgement :

G.R. Luthra, J.

(1) The present petition under Section 482 Criminal Procedure Code . is directed against the judgment of Shri B.S. Chaudhary, Additional Sessions Judge, Delhi and Shri Balbir Singh, Metropolitan Magistrate, Delhi. The learned magistrate vide his judgment dated 1st August, 1983 discharged the respondent Shri Hazari Lal Khanna. The petitioner went in revision which was dismissed on 12th June, 1984 by the learned Additional Sessions Judge, Delhi. The contention of the petitioner is

that it is a case of framing of charge against the petitioner and that the order of discharge is bad.

(2) The respondent Hazari Lal Khanna was working as Vice Principal of N.C.Jindal Public School in the year 1982. All India Senior School Certificate Examination was going on in the month of March 1982. That examination is conducted by Central Board of Secondary Examination. As Vice Principal the respondent was in custody of sealed packets of question papers. The examination started on 5th March 1982 and went on till 23rd March 1982. The case relates to leakage of some question papers, with the result that in respect of some papers out of those leaked papers re-examination was held.

(3) The case started on account of leakage of some papers. The first report in this respect was relating to leakage of papers of Chemistry fixed for 16th March 1982. First information report was lodged on the suspected leakage of that paper at the examination centre of Sardar Patel Vidyalaya, Lodi Road, New Delhi, Thereafter there were other reports also from the functionaries of Central Board of Secondary Examination. The Investigation started and one Pan Singh peon and the respondent were proceeded against by the police.

(4) There was shortage of one question paper in respect of Mathematics-Core, Hindi elective. Biology, Accountancy, English elective. Political Science, Home Science in respect of which examination were fixed for March Ii, 17, 18, 18, 19, 20 and 23, 1982 respectively. The shortage of one question paper of every one on the aforesaid dates relates to the centre of the respondent. The respondent reported that shortage. However, there was leakage of the question paper and holding of re-examination relating to the dates of 11th and 18th March 1982 only.

(5) According to the allegations of the prosecution. Pan Singh, Peon and the respondent were in conspiracy and that it was in pursuance of that conspiracy that there was leakage of question papers. Both the learned Magistrate and the Additional Sessions Judge were of the view that there was hardly any evidence to show the existence of an.y conspiracy or any contribution of the respondent towards the alleged crime. The respondent was sought to be prosecuted for criminal breach of trust. But not finding any evidence, both the courts below

discharged the respondent and framed a charge of theft punishable under Section 380 Indian Penal Code against Pan Singh, Peon.

(6) Before deciding this petition on merits, it is absolutely necessary to know the scope of such a petition. It was held in Raj Kapur and others v. State, : 1980 CriLJ202 , that inherent power should be exercised very sparingly and only in those cases if glaring injustice stared the court in the face. thereforee, we have to see if there is any injustice done by the courts below in discharging the present respondent.

(7) Learned counsel for the State at the time of arguments contended that although there is no direct evidence to show the existence of conspiracy between the respondent and Pan Singh, yet there are some circumstances which arouse strong suspicion that such a conspiracy did exist. He pointed out that the report of Central Forensic Science Laboratory in respect of seals showed that the sealed packets of the question papers were tampered with in as much as some seals were slightly loose than the others and that it was the duty of the respondent to have exercised vigilance against pilferage of those question papers which he did not.

(8) In my opinion there is complete lack of evidence to show that the respondent had any concern with the crime. The circumstances which have been relied upon by the counsel for the State do not raise any suspicion not to speak of strong suspicion. What vigilance the respondent could exercise He was keeping the sealed question papers under lock and key in an almirah. He could not expected to be glued to that almirah day and night.

(9) The petitioner itself has placed on record a book containing 'Guidelines' for the Superintendents of Examination Centres and Assistant Superintendents when examination of Central Board of Secondary Education is being held. Counsel for the respondent read with me most of the guidelines and showed that the respondent followed each and every guidelines meticulously. Under these circumstances it is not possible to say that there was any lack of vigilance on the part of the respondent.

(10) Further it appears that it had come to the knowledge of the police through a disclosure statement of Pan Singh, Peon that the letter had got a duplicate key, made, which according to the letter he had kept with a person at Faridabad. The very fact that duplicate key had been made by him showed that the respondent had no hand in the alleged crime. Had Pan Singh been in league and conspiracy with the respondent he could have easily got the original key from the respondent and would not have bothered to get any duplicate key made.

(11) I, thereforee, find that not to speak of any glaring injustice staring in the face of the court there is hardly any injustice and hence I dismiss this petition.

(12) Criminal Misc. (Main) 1116/84 stands disposed of.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com