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SooperKanoon Citation : sooperkanoon.com/712541

Court : Delhi

Decided On : Sep-01-2006

Reported in : 2006(91)DRJ616

Judge : S.N. Aggarwal, J.

Acts : [Prevention of Corruption Act, 1947](#) - Sections 4; Indian Penal Code (IPC) - Sections 161

Appeal No. : WP (Crl.) No. 1408/2004 and Crl. MA. No. 9178/2004

Appellant : Dilip Kumar

Respondent : State and anr.

Advocate for Def. : Neelam Grover, Adv.

Advocate for Pet/Ap. : Siddharth Luthra and; Rajni Gupta, Advs

Judgement :

S.N. Aggarwal, J.

1. The petitioner is an employee of NDMC. There was a complaint against him that he had demanded Rs. 100/- from Chaman Lal who was doing business of vending flowers and dolls on pavement at Teen Murti Chowk. The incident is two decades old that took place on 25.09.1986. It is alleged that the complainant Chaman Lal

on the date of incident went to pay the bribe money of Rs. 100/- to the petitioner but he did not accept the same and asked the complainant to come the next day with Rs. 250/-. At that time, he was accompanied with a shadow witness Satish Singh. The shadow witness Satish Singh was asked to accompany the complainant as the complainant had reported the matter to the Anti-Corruption Branch and on his complaint a case vide RC-63/1986-III had been registered against the petitioner. The matter was investigated by the Anti-Corruption Branch and after completion of investigation, a Closure Report was filed by the CBI before the Special Judge. The closure report filed by the CBI was not accepted by the Special Judge who vide his order dated 31.03.2003 directed the CBI to further investigate the matter. Pursuant to the said order of the Special Judge, Delhi, the matter was further investigated by the CBI but no new fact emerged as a result of such further investigation. However, keeping the wishes of the Special Judge in mind, the CBI has filed the charge-sheet against the petitioner for his trial under Section 4 of [Prevention of Corruption Act, 1947](#) read with Section 161 of Indian Penal Code.

2. The petitioner has filed this writ petition seeking quashing of aforementioned case registered against him on the complaint of Chaman Lal. The learned Counsel for the petitioner has submitted that the complainant Chaman Lal, on whose complaint criminal proceedings came in motion against the petitioner, has expired On 25.04.19.97. The death of the complainant is admitted even by the CBI. The learned Counsel has drawn my attention to the order of the Special Judge passed on 31.03.2003 which is at page 28 of the paper book, wherein the Learned Special Judge had observed as follows:

In my view, there is no justification for closure of the case. Complainant Chaman Lal has made a written complaint of demand of bribe. If the complaint is proved to be false, he will suffer legal consequences for making a false complaint. However, it cannot be said at this stage that the complaint made by Chaman Lal was false or incorrect.

3. Relying upon the aforementioned observations of the Learned Special Judge, counsel for the petitioner has argued that in the event complaint of Chaman Lal

being found false, occasion for his prosecution for lodging false complaint would not arise as the complainant has already expired. The learned Counsel for the petitioner has further contended that after the filing of the closure report and as a result of further investigation carried out by the CBI, no new fact has emerged on the basis of which the CBI could have filed the charge-sheet once it had taken a decision to file the closure report.

4. These contentions advanced on behalf of the petitioner are not without substance. The learned Counsel appearing for the CBI has no answer to any of these contentions except saying that there is a shadow witness Satish Singh still available for proving the charge against the petitioner. The said shadow witness was available with the CBI even at the time closure report was filed. This is not a new fact. In view of the material that has been placed before me, I have no hesitation in holding that the case of the CBI, even if it is taken on its face value to be correct, still the chances of conviction of the appellant are meak. I am further of the view that it would not be worth while to send the case for trial as the incident has become two decades old.

5. In view of the above and on taking a cumulative effect of all the circumstances of the case, the aforementioned case registered against the petitioner is ordered to be dropped. The aforementioned FIR registered by the CBI against the petitioner is quashed.

6. This writ petition is disposed of accordingly