

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 985 OF 2014
(Arising out of S.L.P.(Crl.) No. 2757 of 2012)

SURENDRA KUMAR GOLCHA ... APPELLANT(S)

VERSUS

STATE OF RAJASTHAN & ANR. ...RESPONDENT(S)

O R D E R

The petitioner, aggrieved by his prosecution under section 203 of the Rajasthan Municipalities Act, 1959 (hereinafter referred to as the "Act"), has preferred this special leave petition.

Short facts giving rise to the present petition are that on the basis of a report given by the Executive Officer of the Municipal Board alleging encroachment by Golcha group, a case under Section 203 of the Act was registered.

Police after usual investigation did not find sufficient material to file a chargesheet against the petitioner. The informant-Executive Officer filed a Protest Petition. The report submitted by the Investigating Officer was placed for consideration before the learned

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Magistrate, who differed with his conclusion, took cognizance of the offence under Section 203 of the Act and directed issuance of process against the petitioner. The petitioner, aggrieved by the same, preferred revision, which was ultimately dismissed by the Additional Sessions Judge. The petitioner, thereafter, filed an application under Section 482 of the Code of Criminal Procedure for quashing the

aforesaid orders. The High Court by the impugned order has rejected the said petition. It is in these facts and circumstances, the petitioner has preferred this special leave petition.

Leave granted.

Mr. U.U. Lalit, learned senior counsel appearing on behalf of the appellant, raises a very short point. He submits that according to the First Information Report, it is Golcha group who is alleged to have made encroachment and during the course of investigation, nothing had surfaced to show that this appellant was in any way responsible for the encroachment alleged.

Mr. Lalit further points out that "Golcha group" is not a juristic person. In that view of the

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matter, according to Mr. Lalit, prosecution of the appellant is an abuse of the process of the Court.

On the other hand, Ms. Shobha, learned counsel appearing on behalf of respondent No. 2- Municipal Board, however, submits that Golcha group is a known group and, therefore, the prosecution of the appellant is well justified.

We have appreciated the rival submissions and we find substance in the submissions of Mr. Lalit. Allegation of encroachment is against the Golcha group. Golcha group is not a juristic person. No material has come during the course of investigation to connect the appellant before us with the crime. In that view of the matter, we are of the considered opinion that the prosecution of the appellant shall be an abuse of the process of the Court.

Before concluding, we make it clear that the

Mr. Milind Kumar, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(S.K. Rakheja)
Court Master

(Signed order is placed on the file)

(Indu Satija)
Assistant Registrar