

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2012
CC 8521/2012

(From the judgement and order dated 03/03/2008 in FMA No.24/2005, dated 11/01/2012 in MAT No.1339/2011, of The HIGH COURT OF CALCUTTA)

KESHAB CHANDRA SAHA Petitioner(s)

VERSUS

UNITED COMMERCIAL BANK & ORS. Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 07/12/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. M.C. Dhingra, Adv.
Mr. Piyush Kant Ray, Adv.

For Respondent(s)

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

This petition is directed against judgments dated 3.3.2008 and 11.1.2012 of the Division Bench of the Calcutta High Court in the matter of departmental inquiry initiated against the petitioner vide Charge Sheet dated 31.7.2000. The petitioner has also filed an application for condonation of 1046 days' delay in filing the special leave petition against judgment dated 3.3.2008.

We have perused the averments contained in the application for condonation of delay and are convinced beyond any manner of doubt that the petitioner has miserably failed to show sufficient cause for condonation of more than 4 years' delay in filing the special leave petition against judgment dated 3.3.2008 and, on that account, the application is liable to be dismissed.

It is borne out from the record that after almost 3 years of initiation of the departmental inquiry, the petitioner filed W.P.No.961(W)/2003 for quashing the Charge Sheet. The same was disposed of by the learned Single Judge of the High Court who stayed the proceedings of the departmental inquiry till the conclusion of the criminal trial. Simultaneously, he made it clear that the department shall be free to proceed against the petitioner after conclusion of the criminal proceedings.

The criminal case filed against the petitioner under Sections 468/471/420 read with Section 120-B IPC resulted in his acquittal because no evidence could be produced by the prosecution to prove the charge. Immediately thereafter, the petitioner filed Writ Petition No.8965/2004 and challenged the inquiry proceedings on the ground of delay. The same was dismissed by the learned Single Judge. The appeal filed by the petitioner was allowed by the Division Bench of the High Court and the matter was remitted to the learned Single Judge with the direction to decide the following question:

"Whether, after acquittal from the Criminal Case, the Writ Petitioner is legally entitled to pray for quashing of the departmental proceeding and also as to whether the bank authorities are debarred from proceeding with the departmental proceedings, as has been initiated on application of banks own rule."

After remand, the learned Single Judge considered the aforesaid question, referred to large number of precedents and held that the bank authorities were entitled to continue the departmental proceedings and pass order of punishment. The Division Bench negated the petitioner's challenge to the order of the learned Single Judge and held that the writ petition filed by the petitioner was rightly dismissed by the learned Single Judge.

We have heard Shri M.C. Dhingra, learned counsel for the petitioner. In our opinion, the petitioner's challenge to judgment dated 3.3.2008 merits rejection not only on the ground that the petition is hopelessly barred by time but also on merits because the Division Bench had rightly opined that the inquiry proceedings instituted against the petitioner cannot be nullified only on the ground of delay and his acquittal on the ground of lack of evidence did not debar the disciplinary authority from continuing the departmental proceedings and passing the order of punishment.

The petitioner's challenge to judgment dated 11.1.2012 is clearly misconceived. The view taken by the Bench on the legality of the departmental proceedings is in consonance with the law laid down by this Court in Capt. M Paul Anthony v. Bharat Gold Mines Limited (1999) 3 SCC 679, General Manager, UCO Bank v. M. Venu Ranganath (2007) 13 SCC 251, Suresh Pathrella v. Oriental Bank of Commerce (2006) 10 SCC 572, Ajit Kumar Nag v. G.M. (P.J.), Indian Oil Corporation Ltd., Haldia (2005) 7 SCC 764 and Samar Bahadur Singh v. State of U.P. (2011) 9 SCC 94. We are also of the view that the petitioner cannot take advantage of his acquittal in the criminal case on the ground of lack of evidence and quashing of the proceedings initiated at the instance of the complainant.

The special leave petition is accordingly dismissed qua judgment dated 3.3.2008 as barred by time and also on merits. The special leave petition filed against judgment dated 11.1.2012 is dismissed on merits.

| (Parveen Kr.Chawla)

| Court Master

| | (Phoolan Wati Arora)

| | Court Master