

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

CRIMINAL APPEAL NO(S). 1599 OF 2009

MAHESH KUMAR THAPAR @ M.K.THAPAR

Appellant(s)

VERSUS

STATE OF JHARKHAND

Respondents(s)

(With prayer for ex-Parte
Report)

and Prayer for Interim Relief and Office

Date : 23/05/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE A.K. SIKRI
(VACATION BENCH)

For Petitioner(s)

Mr. Kirat Singh Nagra,Adv.
Mr. Monish Panda,Adv.
Mr. Avneesh Arputham,Adv.
Mr. Praveen Kumar , Adv.

For Respondent(s)

Mr. P.K. Dey,Adv.
Mr. Dinesh Kohri,Adv.
Mr. S. Bajpai,Adv.
Mr. B.V. Balram Das,Adv.
Mr. Arvind Kumar Sharma , Adv.

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

The appeal is allowed, in terms of the signed order. The
cognizance taken of the alleged offence against the appellant, is
discharged in the CBI Case.

(O.P. SHARMA)

Signature Not Verified

(M.S. NEGI)

COURT MASTER

Digitally signed by
Om Parkash Sharma

ASSISTANT REGISTRAR

(Signed order is placed on the file)

Date: 2014.05.27

18:16:19 IST

Reason:

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1599 OF 2009

MAHESH KUMAR THAPAR @ M.K.THAPAR

Appellant(s)

VERSUS

STATE OF JHARKHAND

Respondents(s)

O R D E R

The Central Bureau of Investigation (CBI) has registered a case against the appellant for the offence punishable under Section 420, 120 B of the Indian Penal Code (IPC) as well as under Section 13(2) read with Section 13 (1)(d) of the Prevention of Corruption Act, 1988. The allegations pertain to the year 2002. As per the prosecution, the appellant being the Director (Tech), CMD, Central Coalfields Ltd.(CCL), Ranchi, entered into a criminal conspiracy with Shri S.K. Basu, the then Director (Finance), Shri P.V.L.N. Prasad, the then General Manager (Transportation) and in league with M/s. Rungta Projects Ltd. placed orders for transportation of 1.5 lakh M.T. coal from Jharkhand Project of Hazaribagh dishonestly and fraudulently to Rajrappa washery of CCL (distance of 49.8 km) to M/s. Rungta Projects for four months at an exorbitant rate without ensuring competitive rate and also ignoring the prevalent rate of transportation causing loss to the extent of

Rs.24.78 lakhs to the CCL.

Admittedly, this event is of the year 2002. After the CBI registered the case and investigating the same, the sanction of the competent authority was sought under Section 19 of the Prevention of Corruption Act as well as Section 21 of the Indian Penal Code, the appellant being a public servant at that time. This sanction was specifically refused. Because of this reason, the appellant could not be prosecuted at that time. The appellant retired from service in the year 2006. Even after his retirement, the CBI sought the sanction of the competent authority once again but it was turned down second time as well. Notwithstanding above, the RC Case No.8(A)/2005 was filed in the Court of Special Judge, CBI Ranchi and vide orders dated 6.10.2007, the Special Judge took cognizance thereof. The appellant moved the application for discharge

pointing out the refusal of sanction against him as mentioned him. However, this application preferred by the appellant was dismissed by the Special Judge vide order dated 6.10.2007. Challenging this order the appellant has preferred Criminal Revision for quashing of this order and this petition has been dismissed by the High Court vide order dated 7.5.2009 which is impugned in the present appeal.

From the facts noted above, it is clear that not only when the appellant was in service but even after his retirement

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sanction to prosecute him was turned down by the competent authority. On this basis, the learned counsel for the appellant has submitted that it was not proper on the part of the Special Judge, CBI Ranchi to take cognizance of the matter. He submitted that as held by the judgment of this Court in Chittaranjan Das vs. State of Orissa (2011) 7 SCC 167 wherein the proposition advanced by the learned counsel for the appellant has been accepted by this Court in the following manner:

"14. We are of the opinion that in a case in which sanction sought for is refused by the competent authority, which the public servant is in service, he cannot be prosecuted later after retirement, notwithstanding the fact that no sanction for prosecution under the Prevention of Corruption Act is necessary after the retirement of the public servant. Any other view will render the protection illusory. Situation may be different when sanction is refused by the competent authority after the retirement of the public servant as in that case sanction is not at all necessary and any exercise in this regard would be action in futility."

We are of the opinion that the aforesaid judgment applies in all force to the facts of this case.

Mr. P.K. Dey, learned counsel appearing for the respondent-State had sought to argue that once the cognizance was taken by the Special Judge and in that matter High Court has rightly turned down the revision petition as these are all the matters to be gone into at

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the stage of trial. He also placed certain other arguments relate with technicalities. However, those arguments are of no substance in the present case. Having regard to the aforesaid facts coupled with the fact that the alleged incident is of the year 2002 and the appellant also retired more than 8 years ago, that is, in the year 2006, and even the sanction was refused twice once before his retirement and second time after his retirement, we are of the opinion that no useful purpose would be served in prosecuting the appellant at this stage. We may record that when the notice was issued, the further proceedings in the matter had been stayed by this Court with the result that the trial has not started in so far as the appellant is concerned. The appeal is accordingly allowed. The cognizance taken of the alleged offence against the appellant, is discharged in the CBI Case.

.....J.
[DR. B.S. CHAUHAN]

.....J.
[A.K. SIKRI]

NEW DELHI
MAY 23, 2014