

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1171 OF 2013

State of N.C.T. of Delhi

Appellant

VERSUS

Sanjay Kumar Rai

Respondent

O R D E R

1. The present appeal is directed against the order passed by the High Court of Delhi at New Delhi whereby the High Court vide order datd 28.01.2009 has declined to grant leave.

2. The respondent was an accused in FIR No. 5/99, faced trial under Sections 7 and 13 of the Prevention of Corruption Act, 1988 and the learned Trial Judge acquitted him on the ground that no sanction was obtained from the competent authority by the prosecution. To arrive at the said conclusion, the learned Trial Judge opined that the accused was working in Delhi Jal Board and had voluntarily joined Delhi Home Guard Department and, therefore, the parent employer being Delhi Jal Board, sanction should have been obtained from the competent authority of the Board. The High Court accepted the said view and declined to grant leave.

3. Mr. Dey, learned counsel appearing for the Appellant submitted that on the date cognisance was taken, the respondent-accused was not in service inasmuch as he was discharged from the service as a Home Guard vide exhibit PW3A dated 9.3.1999. At this juncture, Mr. Mukharjee, learned counsel appearing for the respondent submitted that the respondent was an employee of the Delhi Jal Board and he had joined

as a Home Guard in the Delhi Home Guard Department voluntarily and after his discharge, he came back to Delhi Jal Board, his parent Department, and, therefore, it is not a case where there was a severance of status of employer and employee, for which no sanction was necessary.

4. Be it noted, nothing has been brought on record that the respondent, after discharge by the Home Guard Department, had come back to Delhi Jal Board.

Mr. Mukharjee submitted that he has documents to show that the respondent was put under suspension and after acquittal, he has been continuing in service in his parent department.

5. In view of the aforesaid, we think it appropriate to allow the appeal, set aside the order of the High Court and permit the respondent to file an appropriate application under Section 391 of the Code of Criminal Procedure, 1973 to show that he was an employee of the Dehli Jal Board on the date cognisance was taken. If the High Court is satisfied

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in that regard, leave for appeal shall be granted and the matter shall be dealt with on merits. If in the ultimate eventuate it is found that no sanction was in fact needed, the High Court shall pass appropriate orders as advised in law. If such an application is filed by the respondent, the High Court is requested to deal with the same as expeditiously as possible.

6. The appeal is allowed to the extent indicated above.

.....J.  
(DIPAK MISRA)

.....J.  
(N.V. RAMANA)

NEW DELHI  
MAY 12, 2014

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ITEM NO.105

COURT NO.5

SECTION II

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). 1171 OF 2013

STATE OF N.C.T.OF DELHI

Appellant (s)

VERSUS

SANJAY KUMAR RAI

Respondent(s)

Date: 12/05/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE N.V. RAMANA  
(VACATION BENCH)

For Appellant(s) Mr. P.K. Dey, Adv.  
Mr. D.S. Mahra, Adv.

For Respondent(s) Mr. Shamit Mukharjee, Adv.  
Mr. Manoj K.Mishra, Adv.

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

Appeal is allowed in terms of the signed order.

(NAVEEN KUMAR)  
COURT MASTER

(SNEH LATA SHARMA)  
COURT MASTER

(Signed order is placed on the file)