Jaydev Das Vs Central Bureau of Investigation

Criminal Petition No. 57 of 2010

Court: Gauhati High Court

Date of Decision: March 19, 2010

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) â€" Section 482#Penal Code, 1860 (IPC) â€" Section 109, 120B, 409, 419, 420#Prevention of Corruption Act, 1988 â€" Section 13(1), 13(2), 17, 31

Citation: (2010) 4 GLR 804

Hon'ble Judges: Iqbal Ahmed Ansari, J

Bench: Single Bench

Advocate: M.K. Choudhury, J.I. Borbhuiya, F. Begum, L. Mohan, S. Roy and A, Ahmed, for the Appellant; A.C. Buragohain, for the Respondent

Final Decision: Dismissed

Judgement

I.A. Ansari, J.
By making this application u/s 482, Cr.PC, the petitioner has sought for quashing of the First Information Report ("the

FIR"), which has been lodged, on 28.1.2010, by the Superintendent of Police, Central Bureau of Investigation, ACB, Guwahati, giving rise to

Special Case No. 02/2010.

2. Heard Mr. M.K. Choudhury, learned senior counsel, appearing on behalf of the petitioner, and Mr. A.C. Buragohain, learned Standing

Counsel, CBI.

3. The FIR, which the petitioner seeks to get set aside and quashed, reads as under:

A reliable source information has been received to the effect that Sri Jaydev Das, while posted and functioning as Chief Manager of Allahabad

Bank, Lakhtokia branch, Guwahati, during January 2006 to 21.2.2008, by abusing his official position by way of fraudulent and illegal means has

amassed assets (movable and immovable) which, are hugely disproportionate to his known sources of income.

It is alleged that the income of accused Jaydev Das from his known sources during the period 2006 to 2008 was Rs, 3,74,826 and was found, in

possession of the following assets:

i.e., [(917,76,881+7,92,468) + (23,25,816(-)3,74,826)]

= [9,84,413 + 19,50,990] = Rs. 29,35,403/- or 783.13;

Therefore, the accused Jaydev Das is in possession of Asset Disproportionate his known sources of income to the tune of Rs. 29,35,403, which is

783.12%.

Thus, the aforesaid information prima facie discloses commission of offences punishable u/s 109, IPC and u/s 13(2) read with 13(1)(e) of the PC.

Act, 1988 against Sri Jaydev Das and his wife Smt. Kumkum Das.

A regular case is, therefore, registered and endorsed to Shri Ribit Kapoor, Addl. SP, CBI, ACB, Guwahati for information.

Sd/-

(H.C. Nath, IPS)

Superintendent of Police

CBI, ACB, Guwahati.

4. The petitioner points out that on the basis of the FIR, which was lodged, on 31.10.2000, by the Deputy General Manager, Allahabad Bank,

with the Superintendent of Police, CBI, Kolkata, a case was registered, the case being RC BSK 2007 E 0003 and, on completion of investigation,

charge sheet has been submitted therein against the petitioner and some others, and, on the basis of the charge sheet so submitted, a case has been

registered in the court of the learned Special Judge, CBI, Guwahati, the case being Special Case No. 28/2007, and that during the pendency of

the said case, the FIR, which the petitioner seeks to get set aside and quashed, was lodged and a charge sheet making accusation of petitioner-

having acquired assets disproportionate to his known source of income has been submitted and, on the basis of the charge sheet, so submitted,

Special Case No. 02/2010 has been registered.

5. The petitioner contends that the subject-matter of the first FIR, which gave rise to Special Case No. 28/2007, covers the subject-matter of the

second FIR, which has given rise to Special Case No. 02/2010. Merely because of the fact that on the basis of the second FIR, a case has been

registered u/s 31(e) of the Prevention of Corruption Act, 1988, the second FIR could not have been entertained and no separate case ought to

have been instituted. So contends the petitioner.

6. While considering the above submissions, made on behalf of the petitioner, it needs to be noted that the first FIR alleges that the petitioner, while

working as Chief Manager, Allahabad Bank, Lakhtokia branch, Guwahati, had entered into criminal conspiracy with six persons, who have been named in the FIR, and, pursuant to such criminal conspiracy, the petitioner helped the said six persons in the commission of various offences of

criminal breach of trust, cheating and forgery. On the basis of the first FIR, a case has accordingly been registered u/s

120B/409/419/420/467/468/477, IPC read with Sections 13(2)/13(1)(c) & (d) of Prevention of Corruption Act, 1988. The first case, it may be

noted, does not relate to a case of disproportionate asset. In the light of the second FIR. what one can easily gather is that the accusation, in

substance, against the petitioner is that the petitioner has acquired assets more than he could have acquired through his known source of income.

The allegation of acquisition of assets, disproportionate to his known source of income, need not necessarily be pursuant to the conspiracy which

the petitioner had, allegedly, entered into with the said six person. Thus, even if the prosecution fails to prove the case, which it has set up by

means of the first FIR, the accusations, contained in the second FIR, as regards disproportionate assets acquired by the petitioner, would still

survive. In such circumstances, when the subject-matter of the second FIR is not entirety covered by the subject-matter of the first FIR, the

second FIR and the second charge sheet submitted therein and the registration of the case, based on this second charge sheet cannot be quashed

on the ground that in the face of the first FIR, the second FIR ought not to have been registered.

7. It has been pointed out by Mr. M.K Choudhury, learned senior counsel, appearing on behalf of the petitioner, that the petitioner stood

transferred from the Lakhtokia Branch of the Allahabad Bank, with effect from 25.11.2006; whereas the second FIR alleges that the petitioner

had acquired assets between January 2006, and 21.2.2008, while working at the Lakhtokia Branch of the said Bank. It may be pointed out, in this

regard, that the charge against the petitioner is acquisition of assets more than his known sources of income and, hence, the place of posting is not

as material as the period, during which the assets were acquired. According to the second FIR, the assets were acquired between January 2006,

and February 2008. Merely because of the fact that the petitioner had been transferred from Allahabad Bank, Lakhtokia Branch, on 25.11.2006,

it does not, as a corollary, follow that he could not have acquired assets, between January 2006, and 21st February, 2008, disproportionate to his

known sources of income.

8. Coupled with the above, it has also been pointed out, on behalf of the petitioner, that before investigation, on the basis of the second FIR, was

commenced, no requisite sanction from the competent authority was obtained. Suffice it to point out, in this regard, that the second FIR has been

lodged and registered by the Superintendent of Police, CBI. ACB. Guwahati, who is, in the light of the provisions of Section 17 of the Prevention

of Corruption Act, 1988, a competent authority to investigate the case. Hence, it cannot be said that the investigation, on the basis of the second

FIR, suffers from lack of jurisdiction.

9. Because of what have been discussed and pointed out above, this Court is of the view that the petitioner has not been able to make out any

case warranting this Court''s exercise of powers u/s 482, Cr.PC. The petitioner''s prayer for quashing of the FIR, therefore, fails, and this Criminal

Petition shall accordingly stands dismissed.