

Court No. - 15

Case :- CRIMINAL APPEAL No. - 908 of 2017

Appellant :- M/S Babri Paper Mills Ltd. Thru.Chairman Sarva Shakti Swarup

Respondent :- State of U.P. and Another

Counsel for Appellant :- Pushpila Bisht

Hon'ble Shamim Ahmed,J.

Heard learned Counsel for the parties.

This is the Criminal Appeal under Section 374(3(A)/386/389 Cr.P.C. against the judgment and order passed by Special Judicial Magistrate, (Water & Air Pollution Control), Lucknow in Criminal Case No.72/1993 (U.P.P.C.B. vs. M/s Babri Paper Mills Ltd and Others) on 06.04.1994 convicting the appellant company and imposing fine of Rs.6000/-.

Brief facts of the case are that the Regional Office of U.P. Pollution Control Board (appellant herein) has filed a criminal complaint under Section 44 of Water Act stating therein that opposite party Nos. 2 and 7 have established the Industry in the name and style of opposite party No. 1. As per provisions of Water Act it was obligatory on the part of opposite parties to follow provisions of Section 25 & 26 of the Water Act and to get consent for discharging their effluent on stream or sewer or on land. According to Section 25/26 of the Water Act there is a mandatory provisions that no person shall without the previous consent of the State Board for bringing into use any new or altered outlet for the discharge of its trade effluent into the stream or well or sewer or on land as defined in Section 2 of the Act read with its amendment Act of 1978. The consent application of opposite party No. 1 was received on 25.03.1982 and the same was rejected on 29.06.1982. It was also stated in the complaint that the Industry was several times inspected by the Officers of the Board and every time it was found that the Industry was discharging their polluted trade effluent in Yamuna river.

The court below, after having heard both the counsels for the parties and after recording statements of witnesses, passed the impugned judgment and order imposing fine of Rs.6000/- upon the appellant, which is under challenged in this appeal.

Learned counsel for the appellant submits that the court below

did not appreciate the evidence on record. He further submits that prosecution has not proved the offence against the accused persons on the basis of evidence. The judgment was passed without considering the statements of witnesses and the case set up by the prosecution. Therefore, this Hon'ble Court may set aside impugned judgement and order.

I have gone through the impugned judgment and order and found that in the present case, the court below, after considering the entire evidence on record including the statements of witnesses and accused persons appeared before the court below, found that the entire prosecution has been lodged in a mechanical manner on the basis of some paper documents, which documents have not been proved to have been received to the accused persons. Learned court below has also given its finding that sample of trade effluent has not been proved by the witnesses, and there is no laboratory report on record in this regard to prove the case of prosecution. The evidence adduced by the witnesses were also found doubtful, therefore, the court below has rightly passed the impugned judgment and order and awarded fine of Rs.6000/- upon the appellant.

Having heard rival submissions as advanced by the learned counsel for the parties and after perusal of the entire material available on record including the impugned order passed by the court below, this Court finds that there is no illegality, perversity or impropriety in the order impugned and the same has rightly been passed after considering the entire evidence available before it. Moreover, the appellant has failed to show any illegality or perversity in the order impugned, as such, no case is made out for interference. The present appeal lacks merit and is liable to be dismissed.

Accordingly, the appeal is **dismissed**.

No order as to costs.

Copy of this judgment be sent to the court below for its compliance.

Order Date :- 17.10.2023

Piyush/-