

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.10831 of 2012

-

Between:

Lakshmi Kanth Shinde @ L.K.Shinde.

...Petitioner

VERSUS

The State of Telangana represented by its Principal Secretary, Home Department, Secretariat, Hyderabad and others.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 2.12.2015

SUBMITTED FOR APPROVAL:

-

-

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

1. Whether Reporters of Local Newspapers

May be allowed to see the Judgment?

Yes/No

2. Whether the copies of judgment may be

Marked to Law Reporters/Journals?

Yes/No

3. Whether Their Lordship wish to see the

Fair copy of the judgment?

Yes/No

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.10831 of 2012

%02.12.2015

-

Lakshmi Kanth Shinde @ L.K.Shinde.

...Petitioner

VERSUS

\$ The State of Telangana represented by its Principal Secretary, Home Department, Secretariat, Hyderabad and others.

...Respondents

< GIST:

> HEAD NOTE:

!Counsel for Petitioner: Sri T.Niranjan Reddy

^Counsel for Respondents 1 & 2: G.P. for Home

^Counsel for Respondents 3 & 4: Sri R.Ramachandra Reddy

? Cases referred

1. 2011 (7) SCC 167
2. (2008) 11 SCC 289
3. 2011 (1) ALD CrI.197
4. (2010) 14 SCC 527
5. (1997) 7 SCC 622
6. 2010 (3) ALD 452

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.10831 of 2012

ORDER:

In the present writ petition, challenge is to the Memorandum No.1697/SC-A/A2/2008-4 dated 22.08.2011 issued by the first respondent State Government. By virtue of the said memorandum, the State Government permitted the Anti-Corruption Bureau to file charge-sheet against the petitioner in the Court of law and the petitioner is also praying for quashment of the proceedings in CC No.16 of 2011, on the file of the Court of the First Additional Special Judge for SPE and ACB cases.

2. According to the petitioner, he joined in the State Police Department as a Sub-Inspector on 20.09.1978 and got promotion as Inspector of Police on 08.02.1989 and as a Deputy Superintendent of Police on 09.12.2005. The Deputy Superintendent of Police, Anti-Corruption Bureau, C.I.U, Hyderabad registered Cr.No.33/ACB/CIU-HYD/2008 against the petitioner and another under Sections 7, 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988 read with Section 34 I.P.C. On the representation made by the petitioner, requesting to drop the proceedings, on receipt of the final report dated 27.09.2010 of the Director General of Anti-Corruption Bureau, Hyderabad, the State Government vide G.O.Rt.No.1954, Home (SC.A) Department dated 06.11.2010, passed orders, deciding to refuse sanction for prosecution while ordering to place the matter before the Tribunal for Disciplinary Proceedings for regular enquiry into the allegations of corruption.

Thereafter, as a consequence of the said orders, the State Government vide Lr.No.1697/SC.A/A2/2008-4, dated 10.11.2010, asked the Tribunal for Disciplinary Proceedings to conduct enquiry.

3. On 31.05.2011, petitioner retired from service on attaining the age of superannuation. Based on a letter dated 30.11.2010 of the Director General of Anti-Corruption Bureau, the State Government by virtue of Memorandum No. No.1697/SC-A/A2/2008-4 dated 22.08.2011, permitted the Director of Anti-Corruption Bureau, to file a charge-sheet in the Court. The Anti-Corruption Bureau, as evident from the material on record, filed

the charge-sheet on 23.07.2011 vide C.C.No.16 of 2011, on the file of the Court of the First Additional Special Judge for SPE and ACB cases. Challenging the validity and the legal sustainability of the said Memorandum dated 22.08.2011 of the State Government and the proceedings in C.C.No.16/2011, the present writ petition came to be instituted.

4. This Court, while ordering *Rule Nisi*, granted interim stay on 18.04.2012 in WPMP.No.13694/2012. Responding to the *Rule Nisi* and denying the allegations and averments made in the writ affidavit, a counter affidavit is filed on behalf of the first respondent and a reply affidavit is also filed by the writ petitioner.

5. Heard Sri T.Niranjan Reddy, learned Senior Counsel, appearing for the counsel for the petitioner on record Sri T.Nagarjun Reddy and the learned Government Pleader for Home for the State and Sri Ravi Kiran Rao, learned Standing Counsel for the Anti-Corruption Bureau apart from perusing the material available on record.

6. It is contended by the learned Senior Counsel appearing for the petitioner that the very action of granting permission by the State Government and the prosecution against the petitioner is a patent abuse of process of law and highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India and opposed to the very spirit and object of the provisions of the Prevention of Corruption Act, 1988. It is further contended that the action of the State Government in granting permission to file charge-sheet is totally one without jurisdiction and is a result of total non-application of mind. It is the further submission of the of the learned Senior Counsel that having refused to accord permission to prosecute the petitioner earlier, it is absolutely not open for the State Government to permit the ACB to file charge-sheet after superannuation of the petitioner without there being any new material available before the State Government. It is the further submission of the learned Senior Counsel that dropping of proceedings against the accused No.2 while

continuing the prosecution against the petitioner (A.1) is discriminatory and offends Article 14 of the Constitution of India.

7. To bolster his submissions and contentions, learned counsel for the petitioner places reliance on the decision of the Hon'ble Apex court in the case of **CHITTARANJAN DAS v. STATE OF ORISSA**^[1].

8. On the contrary, it is vehemently submitted by the learned Government Pleader for Home appearing for the State and Sri V.Ravi Kiran Rao, learned Standing Counsel for the Anti-Corruption Bureau that there is no illegality nor there is any procedural infirmity in the impugned action and in the absence of the same, the present writ petition is not maintainable and the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is their further submission that duly taking into consideration, the report of the Director General, Anti-Corruption Bureau, the State Government granted permission to file charge-sheet and the contention that earlier the State Government has refused to grant sanction, as such, the impugned action is untenable, cannot be sustained. It is also the submission of the learned Government Pleader that in view of grave allegations against the petitioner, the petitioner is liable for regular prosecution before the Special Court and there are no circumstances warranting any indulgence of this Court to interdict the prosecution under Article 226 of the Constitution of India. It is also contended that the judgment of the Hon'ble Apex Court relied upon by the learned counsel for the petitioner has no relevance to the case on hand.

To bolster his submissions and contentions, learned Government Pleader has placed reliance on the judgement of the Hon'ble Apex Court in **RAGHUNATH ANANT GOVILKAR v. STATE OF MAHARASHTRA AND OTHERS**^[2] and the judgment of this Court in **POOLA ASWARTHA NARAYANA v. STATE OF ANDHRA PRADESH**^[3].

9. In the above backdrop, now the issues that emerge for consideration of this Court are__

1. Whether the impugned Memorandum dated 22.08.2011 issued by the first respondent State Government, permitting the Anti-Corruption Bureau to file charge-sheet is sustainable and tenable? and
2. Whether the continuation of the proceedings in CC No.16 of 2011, on the file of the Court of the First Additional Special Judge for SPE and ACB cases is permissible?

10. There is no controversy with regard to the realities that the State Government, initially vide G.O.Rt.No.1954, Home (SC.A) Department dated 06.11.2010 refused sanction for prosecution of the petitioner and decided to refer the matter to the Tribunal for Disciplinary Proceedings and the State Government also addressed a consequential letter dated 10.11.2010, asking the Tribunal for disciplinary proceedings to hold enquiry as per rules. The Anti-Corruption Bureau filed a charge-sheet on 23.07.2011. Thereafter, the State Government vide Memorandum No.1697/SC-A/A2/2008-4 dated 22.08.2011 permitted the Anti-Corruption Bureau to file charge-sheet.

A perusal of the State Government memorandum shows in unequivocal and clear terms that there is no reference with regard to the earlier orders of the State Government issued vide G.O.Rt.No.1954, Home (SC.A) Department dated 06.11.2010 and the consequential letter dated 10.11.2010 addressed to the Tribunal for Disciplinary Proceedings, asking to conduct enquiry. No reasons are forthcoming for non-mentioning of the earlier orders. It is also significant to note that one of the vital contentions raised by the learned Senior Counsel during the course of the arguments is that by way of a memo the earlier decision taken by the Government by way of G.O issued in the name of the Governor cannot be allowed to be nullified.

11. In the instant case, as mentioned *supra*, the State Government issued the orders earlier vide vide G.O.Rt.No.1954, Home (SC.A)

Department dated 06.11.2010 and the petitioner herein retired from service on attaining the age of superannuation on 31.05.2011 and the State Government issued the memo on 22.08.2011. It is also important to note that the said impugned memo also does not refer to any permission specifically for prosecution and on the other hand, it permits only filing of charge-sheet. At this juncture, it would be apt and appropriate to refer to the provisions of Section 19 of the Prevention of Corruption Act, 1988, which reads as under:

“19. Previous sanction necessary for prosecution

(1) No court shall take cognizance of an offence punishable under section 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,-

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything contained in the code of Criminal Procedure, 1973,-

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other

ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.-For the purposes of this section,-

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.”

12. While dealing with an identical situation, the Hon'ble Apex Court in the case of **CHITTARANJAN DAS** (*supra* 1), at paragraph 14, held as under:

“We are of the opinion that in a case in which sanction sought is refused by the competent authority, while 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 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.”

13. It is also the submission of the learned counsel for the petitioner that in the absence of availability of fresh material, the State Government ought not to have passed the impugned memo and in support of the said contention, learned counsel placed reliance on **STATE OF HIMACHAL PRADESH v. NISHANT SAREEN**^[4]. In the said decision, the Hon'ble Apex Court at paras 12 to 15 held as under:

“12. It is true that the Government in the matter of grant or refusal to grant sanction exercises statutory power and that would not mean that power once exercised cannot be exercised again or at a subsequent stage in the absence of express power of review in no circumstance whatsoever. The power of review, however, is not unbridled or unrestricted. It seems to us sound principle to

follow that once the statutory power under Section 19 of the 1988 Act or Section 197 of the Code has been exercised by the Government or the competent authority, as the case may be, it is not permissible for the sanctioning authority to review or reconsider the matter on the same materials again. It is so because unrestricted power of review may not bring finality to such exercise and on change of the Government or change of the person authorised to exercise power of sanction, the matter concerning sanction may be reopened by such authority for the reasons best known to it and a different order may be passed. The opinion on the same materials, thus, may keep on changing and there may not be any end to such statutory exercise. In our opinion, a change of opinion per se on the same materials cannot be a ground for reviewing or reconsidering the earlier order refusing to grant sanction. However, in a case where fresh materials have been collected by the investigating agency subsequent to the earlier order and placed before the sanctioning authority and on that basis, the matter is reconsidered by the sanctioning authority and in light of the fresh materials an opinion is formed that sanction to prosecute the public servant may be granted, there may not be any impediment to adopt such course.

13. Insofar as the present case is concerned, it is not even the case of the Appellant that fresh materials were collected by the investigating agency and placed before the sanctioning authority for reconsideration and/or for review of the earlier order refusing to grant sanction. As a matter of fact, from the perusal of the subsequent order dated March 15, 2008 it is clear that on the same materials, the sanctioning authority has changed its opinion and ordered sanction to prosecute the Respondent which, in our opinion, is clearly impermissible.

14. By way of foot-note, we may observe that the investigating agency might have had legitimate grievance about the order dated November 27, 2007 refusing to grant sanction, and if that were so and no fresh materials were necessary, it ought to have challenged the order of the sanctioning authority but that was not done. The power of the sanctioning authority being not of continuing character could have been exercised only once on the same materials.”

14. In the instant writ petition also it is not at all the case of the respondents that the ACB authorities brought fresh material to the notice of the State which prompted the State Government to issue the impugned memo for practically ordering review of the earlier orders refusing to grant prosecution.

15. It is a matter of common knowledge that a mere allegation and accusation of corruption cripples the morale of the individual and

undoubtedly undermines the reputation in the society. The prosecution under the provisions of Prevention of Corruption Act, 1988 is an extreme action which badly and severely affects and disturbs the social life of an individual. Unless the Government comes to a conclusion that there is a substantial material to launch prosecution, the permission for prosecution cannot be accorded in a routine, unreasonable and arbitrary manner. A perusal of the impugned order vividly shows that there is absolutely no application of mind at all. The grant of sanction is not a mere formality and there is a solemn and sacred duty cast upon the sanctioning authority to exercise this power with great care, caution and circumspection and it cannot be lost sight of that this discretionary power given to the State is a safeguard for innocent employees and is a sword in the hands of the sanctioning authorities to prevent frivolous complaints.

16. In this connection, it may be appropriate to refer to the decisions of the Hon'ble Apex Court and this Court in ***MANSUKHLAL VITHALDAS CHAUHAN v. STATE OF GUJARAT***^[5] and ***SRI K.SRINIVASULU v. GOVERNMENT OF ANDHRA PRADESH AND OTHERS***^[6]

17. In ***MANSUKHLAL VITHALDAS CHAUHAN*** (*supra* 5), the Hon'ble Apex Court at paragraphs 9, 14, 17, 18 and 19, held as under:

"9. This Section places a bar on the Court from taking cognizance of the offences specified in Sub-section (1) against Public Servants unless the prosecution for those offences has been sanctioned either by the Central Government, if the person who has allegedly committed the offence, is employed in connection with the affairs of the Union Government and is not removable from his office except with the sanction of the Central Government, or by the State Government if that person is employed in connection with the affairs of the State Government. But if the "public servant" is not an employee of either the Central Government or the State Government, sanction, is to be given by the authority competent to remove him from the office held by him.

14. From a perusal of Section 6, it would appear that the Central or the State , Government or any other authority (depending upon the category of the public servant) has the right to consider the facts of each case and to decide whether that "public servant" is to be prosecuted or not. Since the Section clearly prohibits the Courts from taking cognizance of the offences specified therein, it envisages that Central or the State Government or the "other authority" has not only the right to consider the question of grant of sanction, it has also the discretion to grant or not to grant sanction.

17. Sanction lifts the bar for prosecution. The grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to Government Servants against frivolous prosecutions. (See: Mohd Iqbal Ahmed v. State of Andhra Pradesh : 1979CriLJ633). Sanction is a weapon to ensure discouragement of frivolous and vexatious prosecutions and is a safeguard for the innocent but not a shield for the guilty.

18. The validity of the sanction would, therefore, depend upon the material placed before the sanctioning authority and the fact that all the relevant facts, material and evidence have been considered by the sanctioning authority. Consideration implies application of mind. The order of sanction must ex facie disclose that the sanctioning authority had considered the evidence and other material placed before it. This fact can also be established by extrinsic evidence by placing the relevant files before the Court to show that all relevant facts were considered by the sanctioning authority. (See also: Jaswant Singh v. : (1957)IILLJ696SC ; State of Bihar & Am. vs P.P. Sharma : 1991CriLJ1438 .

19. Since the validity of "Sanction" depends on the applicability of mind by the sanctioning authority to the facts of the case as also the material and evidence collected during investigation, it necessarily follows that the sanctioning authority has to apply its own independent mind for the generation of genuine satisfaction whether prosecution has to be sanctioned or not. The mind of the sanctioning authority should not be under pressure from any quarter nor should any external force be acting upon it to take a decision one way or the other. Since the discretion to grant or not to grant sanction vests absolutely in the sanctioning authority, its discretion should be shown to have not been affected by any extraneous consideration. If it is shown that the sanctioning authority was unable to apply its independent mind for any reason whatsoever or was under an obligation or compulsion or constraint to grant the sanction, the order will be bad for the reason that the discretion of the authority "not to sanction" was taken away and it was compelled to act mechanically to sanction the prosecution."

18. In the case of **K. SRINIVASULU** (*supra* 6), a Division Bench of

this Court at paragraphs 10 to 15, held as under:

“10. The requirement of obtaining sanction is to ensure that no public servant is unnecessarily harassed. Such protection is, however, not absolute or unqualified. While a public servant should be not subjected to harassment, genuine charges and allegations should be allowed to be examined by the Court. (**KrishanchandKhushalchand Jagtiani** : (1996) 4 SCC 472 : AIR 1996 SC 1910). The object of the provision for sanction is also that the authority giving the sanction should be able to consider for itself the evidence before it comes to the conclusion that the prosecution, in the circumstances, be sanctioned or forbidden. (**Jaswant Singh v. State of Punjab** : 1958 SCR 762 : AIR 1958 SC 124).

11. Sanction lifts the bar for prosecution. Grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act. (**Mohd. Iqbal Ahmed v. State of A.P.** : AIR 1979 SC 677). It is a weapon to ensure discouragement of frivolous and vexatious prosecution and is a safeguard for the innocent, not a shield for the guilty. (**Mansukhlal Vithaldas Chauhan** : 1997 (7) SCC 622).

12. An order of sanction should not be construed in a pedantic manner. The purpose for which an order of sanction is required to be passed should always be borne in mind. The order granting sanction must be demonstrative of the fact that there had been proper application of mind on the part of the sanctioning authority. (**State of Karnataka v. Ameerjan** : (2007) 11 SCC 273).

13. Before sanction is granted, under Section 19 of the Prevention of Corruption Act, the competent authority should peruse the concerned documents and come to a definite conclusion that it is a case for prosecution or otherwise. It will be a futile exercise if the sanction order is passed in a routine manner. (**Mohd. Jaffrullah Khan v. State** : 2000 (4) ALD 665). The authority entitled to grant sanction must apply its mind to the facts of the case, evidence collected and other incidental facts before according sanction. The Legislature has conferred on the authority, competent to remove the public servant from office, the power to grant sanction for the reason that he is competent to judge whether, on the facts alleged, there has been an abuse or misuse of the office held by the public servant. That authority would be in a position to know what was the power conferred on the office which the public servant holds, how that power could be abused for corrupt motive and whether, prima facie, it has been so done. (**R.S. Nayak** : (1984) 2 SCC 183 : AIR 1984 SC 684).

14. What is material at the time of grant of sanction is that the necessary facts, collected during investigation, constituting the offence are placed before the sanctioning authority and it has considered the material. (**Deepak Chowdhary** : (1995) 6 SCC

225 : AIR 1996 SC 186). Consideration implies application of mind. Ordinarily the order of sanction must ex-facie disclose that the sanctioning authority had considered the evidence and other material placed before it. (**Jaswant Singh** : 1958 SCR 762 : AIR 1958 SC 124; **State of West Bengal v. Mohammed Khaliti** : AIR 1995 SC 785; and **State of Bihar v. P.P. Sharma** : 1992 Suppl (1) SCC 222; **Mansukhlal Vithaldas Chauhan** : 1997 (7) SCC 622).

15. The sanctioning authority must accord or refuse sanction with reference to the facts on which the proposed prosecution is to be based. It is desirable that these facts appear on the face of the sanction order. (**The State of Rajasthan v. Tarachand Jain** : AIR 1973 SC 2131; **Gokulchand Dwarkadas Morarka v. The King** : 75 Ind App 30 : AIR 1948 PC 82). The order of sanction must ex-facie disclose that the sanctioning authority had considered the evidence and other material placed before it. (**State (Anti-Corruption Branch) v. R.C. Anand (Dr)** : (2004) 4 SCC 615). While the order of sanction need not contain detailed reasons, the basic facts that constitute the offence must be apparent on the impugned order and the record must bear out the reasons in that regard. Proper application of mind to the existence of a prima facie case regarding the commission of the offence is a precondition for the grant or the refusal to grant sanction. (**P.P. Sharma** : 1992 Suppl (1) SCC 222)."

19. In the judgment relied upon by the learned counsel for the respondents in **RAGHUNATH ANANT GOVILKAR** (*supra* 2), the Hon'ble Apex Court held as under:

"The correct legal position, therefore, is that an accused facing prosecution for offences under the old Act or new Act cannot claim any immunity on the ground of want of sanction, if he ceased to be a public servant on the date when the court took cognizance of the said offences. But the position is different in cases where [Section 197](#) of the Code has application."

20. In **POOLA ASWARTHA NARAYANA** (*supra* 3), relied upon by the learned counsel for the respondents, a single Judge of this Court, at paragraph 8, held as follows:

"8. The allegation against the Petitioner is that he received bribe from Ram Mohan Reddy through his Attender Dasari Venkata Subbaiah for the purpose of issuing cheque for an amount of Rs. 1,85,000/- to Parvathamma. Demanding and receiving bribe cannot be said to be part of official duty of a public servant. Therefore, to prosecute the Petitioner, even

sanction under Section [197](#) Code of Criminal Procedure. is not necessary. Further, from the decisions relied on by the learned Special Public Prosecutor it is obvious that at the time of taking cognizance, if the public servant ceased to be a public servant no sanction is required under Section [19](#) of the P.C. Act. Therefore, absolutely I see no merit in the contention of the learned Counsel for the Petitioner that taking cognizance of the offences under the P.C. Act against the Petitioner by the Special Court is bad.”

21. The Judgments relied upon by the learned counsel for the respondents in **RAGHUNATH ANANT GOVILKAR** (*supra* 2) and **POOLA ASWARTHA NARAYANA** (*supra* 3) would not render any assistance to the respondents in view of the law laid down by the Hon’ble Apex Court in the case of **CHITTARANJAN DAS** (*supra* 1). Therefore, this Court finds no scintilla of hesitation nor any traces of doubt to hold that the impugned action is highly unreasonable and preposterous and cannot stand for judicial scrutiny.

22. For the aforesaid reasons, writ petition is allowed, setting aside the Memorandum No.1697/SC-A/A2/2008-4 dated 22.08.2011 issued by the first respondent State Government and the proceedings in CC No.16 of 2011, on the file of the Court of the First Additional Special Judge for SPE and ACB cases are hereby quashed. As a sequel, pending miscellaneous petitions, if any, shall stand disposed of. No costs.

A.V.SESHA SAI, J

Date:02.12.2015

grk

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.10831 of 2012

Dated: 02nd December, 2015

grk

-
- [1] 2011 (7) SCC 167
- [2] (2008) 11 SCC 289
- [3] 2011 (1) ALD CrI.197
- [4] (2010) 14 SCC 527
- [5] (1997) 7 SCC 622
- [6] 2010 (3) ALD 452