

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.2377 of 2018

Sandip Kumar Singh S/o Ravindra Pratap Singh, Aged About 26 Years Working As Office Assistant (Suspended), R/o Village Ghoghra, Police Station And Tehsil Batouli, District Surguja Chhattisgarh.

Since The Petitioner Is In Jail In Respect Of The Crime No. 36/2017, Registered At Police Station Batouli, District Surguja Chhattisgarh, The Present Writ Petition Is Being Filed Through His Wife Namely Smt. Vinita Paikara W/o Sandip Kumar Singh, Aged About 26 Years, R/o Village Ghoghra, Police Station And Tehsil Batouli, District Surguja Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh Rajya Gramin Bank Through Its Managing Director Cum Chairman, Head Office, Mahadev Ghat Road, Sunder Nagar, Raipur, District Raipur Chhattisgarh.
2. Chhattisgarh Rajya Gramin Bank, Through Its Regional Manager, Regional Office First Floor, Vivek Complex, Sangam Gali, Ambikapur, District Surguja Chhattisgarh.
3. Branch Manager, Chhattisgarh Rajya Gramin Bank, Branch Office, Sedam, District Surguja Chhattisgarh.

---- Respondents

For petitioner	:	Shri Govind Dewangan, Advocate.
For Respondents	:	Shri N Naha Roy, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/03/2018

1. The challenge in the present writ petition is to the decision of the respondents to continue with the departmental enquiry which has been initiated against the petitioner parallel to the criminal case which is also pending consideration before the criminal court for the same set of facts.
2. The facts of the case is that, the petitioner was working as office assistant at Chhattisgarh Rajya Gramin Bank and posted at Branch

Sedam. A complaint was lodged at Police Station Batouli, District Surguja in respect of certain misappropriation and embezzlement in the accounts maintained at branch of the respondents at Sedam. An FIR was lodged and in the process the petitioner also was implicated as an accused in the said case. He was prosecuted for the offence punishable under Sections 409 and 420 read with Section 34 IPC vide crime No. 36 of 2017 registered at Police Station Batouli. Meanwhile, the petitioner was arrested and remained in jail for quite sometime. He later on was placed under suspension. After completion of investigation, the police filed a charge sheet against the petitioner and two other accused persons for the offences as mentioned above. The matter was put to trial before the Judicial Magistrate First Class, Sitapur, Distt. Surguja in criminal case No.330 of 2017.

3. Meanwhile, while under suspension, the petitioner was served with a charge sheet on 29.08.2017 wherein about 100 charges have been framed against the petitioner as per the provisions of Chhattisgarh Rajya Gramin Bank and Employees Service Regulation Rules, 2013. The petitioner replied to the said charges and finally not finding the reply satisfactory, the respondents have decided to proceed further with the departmental enquiry. The inquiry officer and presenting officer were also appointed. It is this initiation of departmental proceedings which has been questioned by the petitioner in the instant petition.
4. According to petitioner, the substantive charges levelled against the petitioner in the criminal case is the same as is the charges which is levelled against the petitioner in the departmental charge sheet issued on 29.08.2017. He further submits that substantive right of the petitioner would get adversely affected in case if the bank authorities proceed with the

departmental enquiry and there is all possibility that his defence before the criminal court would get prejudiced, and therefore, pending the criminal case before the criminal court, the departmental enquiry should be stalled. In support of his contention, he relied upon the decision of Supreme Court in case of State Bank of India & Ors. Vs. Neelam Nag & Anr. 2016(9) SCC 491.

5. On the other hand, counsel for the respondents opposing the petition submits that it may appear that the charges are similar, but it is not exactly the same and there are certain additional charges also which have been framed in the charge sheet issued by the Bank. He further submits that list of witnesses or number of witnesses to be examined in the departmental enquiry would be different than the witnesses to be examined before the criminal court. Therefore, there is no requirement of stalling the proceedings initiated by the bank at this juncture.
6. Having heard the contentions put forth on either side and on perusal of records, it would be relevant to refer the judgment of Supreme Court in case of Neelam Nag (Supra). If we peruse the allegations leveled against the petitioner in criminal case for which he has been prosecuted for the offence under Sections 409 and 420 IPC, it would clearly establish that the charges which have been levelled in the departmental charges are in fact the same transactions and if not all, most of the charges are the same.
7. The witnesses which would be required to prove the criminal case also would be the documents maintained in the Bank and the officers available at the Bank plus account holders both in the criminal case as also before the departmental enquiry which forces this court to reach to the conclusion that the proceedings before the two forums i.e. criminal case as well as before the inquiry officer are on the same set of facts and same witnesses would also be required to be examined for proving the case before both the forums.
8. At this juncture, it would be relevant to refer the decision of Supreme Court in

case of Karnataka SRTC Vs. M.G. Vittal Rao, 2012 (1) SCC 442, wherein the Supreme Court has summed up the same in the following words:

- “(i) There is no legal bar for both the proceedings to go on simultaneously.
- (ii) The only valid ground for claiming that the disciplinary proceedings may be stated would be to ensure that the defence of the employee in the criminal case may not be prejudiced. But even such grounds would be available only in cases involving complex questions of facts or law.
- (iii) Such defence ought not to be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.
- (iv) Departmental proceedings can go on simultaneously to the criminal trial, except where both the proceedings are based on the same set of facts and the evidence in both the proceedings is common.” (emphasis supplied)

9. Likewise, if we peruse the decision rendered in Neelam Nag (Supra), it would reveal that the Supreme Court in the said case also initially had taken note of the fact that charges which have been levelled against the petitioner in the criminal case and also in the disciplinary proceeding, if not identical, almost are on similar set of facts and witnesses also relied upon before the two forums being similar, the disciplinary action against the petitioner was stalled for a period of one year. The period of one year was perhaps for the reason that the proceedings before the criminal court was going on since long, whereas, in the instant case the departmental proceedings have been initiated recently. Therefore, at this juncture, it would be in the interest of justice that the departmental proceedings against the petitioner be stalled till the criminal case is finally concluded and thereafter the respondents would be at liberty to proceed further from the stage the inquiry proceedings are fixed as on date.

10. With the aforesaid observations, the writ petition stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge