

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

311

C.R.M. No.67699 of 2011 in/and
C.R.A-S No.1033-SB of 2002 (O&M)
Date of decision : 21.01.2019

Kuldip Singh

..... Appellant

Versus

U.T. Chandigarh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. R.K. Chugh, Advocate
for Dr. Anmol Rattan Sidhu, Sr. Advocate
for the appellant.

Mr. Anil Kumar Lamdharia, APP for U.T. Chandigarh.

AJAY TEWARI, J. (ORAL)

This appeal has been filed against the judgment dated 01.06.2002 passed by the learned Special Judge convicting the appellant and sentencing him to undergo rigorous imprisonment of two years under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 in case FIR No.6 dated 19.12.2000 registered under Sections 7 & 13(2) of the Prevention of Corruption Act, 1988, registered at Police Station Vigilance, U.T., Chandigarh.

Since a very limited issue has been raised by the counsel for the appellant further detailed reference to the facts would not be required. In the year 2011, the appellant had filed a criminal miscellaneous application

bearing CRM No.67699 of 2011 which was an application under Section 391 Cr.P.C. for adducing additional evidence in the present case. The evidence sought to be adduced was copy of the order No.605-FII(8)-2003/1471 dated 07.03.2003 i.e. an order which was passed by the Appellate Authority in an appeal filed by the appellant against his dismissal order (it may be mentioned here that the dismissal was consequent upon the conviction of the appellant in the present case). In this order, the Appellate Authority held that the appellant was actually a substantive employee of the Chandigarh Administration and not the Municipal Corporation and consequently held the order of suspension, the sanction for prosecution and dismissal order passed by the Commissioner, Municipal Corporation as illegal and set aside all the orders. Reply has been filed wherein these essential facts have been admitted. However, the learned Public Prosecutor appearing on behalf of the Union Territory, Chandigarh states that as per his information, subsequently the proceedings were re-initiated against the appellant and he was again dismissed from service.

In the circumstances, the application bearing CRM No.67699 and the appeal stand disposed of and the impugned judgment is set aside. The matter is remitted back to the trial Court for consideration of this aspect afresh. Record of the case be sent to the trial Court. Parties through counsel are directed to appear before the trial Court on 05.03.2019. The trial Court will allow two effective opportunities to the appellant to lead his evidence and also allow further two effective opportunities to the prosecution to lead whatever evidence it may want to lead in defence. Since the appeal is of 2002 the trial Court is directed to decide the case on or

before 31.05.2019. It is made clear that in case the appellant does not appear or does not lead his evidence as directed, the present appeal would be deemed to be dismissed.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

January 21, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No