

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.5 OF 2020

The State of Maharashtra, through Deputy Superintendent of Police & Anti
Corruption Bureau, Amravati .Vs. Guttala Ramkrishna Guttala Subbrao

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M. Kadukar, Advocate for the applicant/State.

Shri P.V. Navlani, Advocate for the non-applicant.

CORAM : ANIL S. KILOR, J.
DATED : 12/10/2022

1. Revision application filed under Section 397 read with Section 401 of the Code of Criminal Procedure, challenging the order dated 04.10.2018 passed by the Additional Sessions Judge, Amravati in Special (ACB) Case No.54 of 2006, discharging the non-applicant from Special (ACB) Case No.54 of 2006.

2. The brief facts of the present case are that, at the relevant time the non-applicant was working as Additional Commissioner Tribal Welfare at Amravati. During his tenure, he was in-charge of Amravati-Aurangabad revenue division and was entrusted for the welfare activities which includes appointment of different posts which were concerned with the tribal activities. It is alleged that the non-applicant appointed and filled 40 posts of different categories in Class III and Class IV on the temporary basis for a period of three years. All these above appointments were from the category of project affected

persons. Thereupon, various complaints were made to the higher authorities alleging that the above referred appointments were made without following due procedure of law. Whereupon, the complaint was lodged at Police Station Gadge Nagar, Amravati. Subsequently, the Government has passed an order for discreet inquiry through Anti Corruption Bureau against the non-applicant and other employees of the tribal welfare department.

3. As it was not possible for Investigation Officer to collect evidence through discreet inquiry therefore, a permission was granted for open inquiry. Accordingly, the offence was registered as Crime No.3123 of 2005 at Gadge Nagar, Police Station. After the investigation, the charge-sheet was filed. As far as the non-applicant is concerned, the charge-sheet was filed in the year 2017.

4. Thereafter, the application was moved by the non-applicant for discharge, the same was allowed by the impugned order below Exh.21 dated 04.10.2018 and the same is under challenged in this revision application.

5. I have heard the learned A.P.P. and the learned counsel for the non-applicant.

6. The learned A.P.P. submits that the learned trial Court has committed an error in discharging the non-applicant. It is submitted that the non-applicant got

superannuated on 31.03.2016 whereas, a sanction was received two days prior to his retirement and therefore, it cannot be said that, there was no sanction to prosecute the non-applicant. He, therefore, submits that the learned trial Court has committed an error in observing that there was no sanction. Accordingly, he prays for quashing and setting aside the impugned order dated 04.10.2018.

7. On the other hand, learned counsel for the non-applicant submits that the period of commission of offence is from 2000 to 2003 and the offence was registered in the year 2005 and for eleven years i.e. till retirement of the non-applicant in the year, 2016, there was no sanction. It is therefore submitted that the learned trial Court has rightly discharged the non-applicant. Accordingly, he prays for dismissal of the present revision application.

8. In the backdrop of rival submissions of both the parties, I have perused the impugned order and the application.

9. After going through the record, it is evident that the period of occurrence of the offence is from 2000 to 2003. The offence was registered in the year 2005, when the non-applicant was in service. Despite knowing well that the non-applicant is a Central Government employee, the sanction was sought from the State Government and it was pending with the State Government till 2013 and in 2013

for the above referred reasons, the State Government refused to grant sanction. Thereafter, for more than reasonable period, no steps were taken to seek sanction from the Central Government and the non-applicant got superannuated on 31.03.2016.

10. As per the submission of the learned A.P.P, it appears that, couple of days before the retirement of the non-applicant the sanction was granted, Thereafter, in the year, 2017, the charge-sheet was filed against the non-applicant. Thus, it is clear that for about 12 years, the charge-sheet was not filed and for about 11 years there was no sanction and in the said backdrop, if the statements of witnesses are considered, there is not a single statement which suggests the involvement of the non-applicant in the alleged offence. Thus, in the above referred backdrop, I do not find any legal infirmity in the impugned order. Accordingly, I pass the following order.

The revision application is **rejected**.

JUDGE