

Court No. - 55

Case :- APPLICATION U/S 482 No. - 2866 of 2001

Applicant :- Devendra Kumar Sharma & Another

Opposite Party :- State Of U.P. & Others

Counsel for Applicant :- Vikram Nath, Akhilesh Chandra Shukla

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Shashi Kant, J.

1. Heard Sri Akhilesh Chandra Shukla, learned counsel for the applicants, Sri B.D. Nishad, learned A.G.A. for the State of U.P. and perused the record.

2. This application under Section 482 Cr.P.C. has been filed for quashing the charge sheet no. 6 of 1999 dated 27.05.1999 submitted in Case Crime No.708 of 1993, under Sections 420, 467, 468, 471 and 120B IPC read with Sections 5(2), 5(1)(D) of Prevention of Corruption Act 1947 read with Section 13(2) and 13(D) of Prevention of Corruption Act, 1988, Police Station Civil Lines, Meerut.

3. Learned counsel for the applicants contended that :-

3.1. Applicant no.1 was posted as Junior Engineer and applicant no.2 was posted as Surveyor in the office of Urban Land Ceiling Department at Meerut. The proceedings under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the 'Ceiling Act') were initiated in respect of the land Khasra No. 1108/01 and 1113/2 area 3727.02 sq.mts. situated in the village Nangla Tasi, Kasampur Tehsil and District Meerut, held by one Nathu Lal. In the said proceedings, land was declared as surplus at the hands of the above land holder without taking into consideration the claim of S/Sri Sagir Ahmad, Jafar Ali, Ram Nath and Kalay, who had taken possession on different parts of the above land prior to the commencement of the Ceiling Act in pursuance of a higher purchase agreement dated 16.02.1973 in respect of land measuring 4386 sq. m. in favour of the above persons.

3.2. The above persons whose claims were not considered due to lack of notice to them, filed their objections on 22.09.1988, in respect of land purchased by them on which vide order dated 24.09.1988 (Annexure 2), Competent Authority directed the Naib Tehsildar, Ceiling to enquire the matter and submit a report along with record. The Naib Tehsildar submitted his report dated 05.11.1988 (Annexure-3) stating therein that on spot inspection it was found that constructions were standing over the said plots of above persons who had got agreement executed in their favour as well that no possession of the said land have been taken by Tehsildar, the Meerut Development Authority also expressed its inability to take possession vide letter dated 22.10.1988. It was also suggested in the report to seek opinion of District Government Counsel (D.G.C.) as to whether at that stage the said land could be excluded from the holding land of the original land holder Nathu Lal.

3.3. In his turn, D.G.C. also submitted his report dated 29.11.1988 (Annexure-4) recommending that the land given to Sagir Ahmad and others could be excluded.

3.4. The Meerut Development Authority also wrote a letter dated 20.10.1988 (Annexure-5) stating therein that no possession of land Khasra No. 1108/01 and 1113/2 was taken by the Tehsildar. The said land already filled up by the constructions. In these circumstances, authorities was not in position to take possession of the same.

3.5. On the said letter of the Development Authority, the Competent Authority vide his order dated 27.10.1988 directed the Assistant Engineer, the applicant no.1 to submit a report after spot inspection. The applicant no.1 requested the surveyor applicant no. 2 to submit the necessary report. The applicants submitted report dated 29.10.1988 (Annexure-6) alongwith a site map pointing out therein that there were constructions on the land and different persons were found in possession over the land.

3.6. Considering the all reports and material before him, the Competent Authority passed a detailed order dated 06.12.1988 (Annexure-7) excluding 3686.06 sq. mts. of land from the holding of the original land holder Nathu Lal and declaring only 40.96 sq. mt. of land as surplus vacant land.

3.7. The above orders passed by the Competent Authority were never challenged before any Higher Authority or any Competent Court and attained finality. Without any inquiry or departmental proceedings, FIR in (Annexure -8) the matter was lodged against 27 persons including applicants under Sections 420, 467, 468, 471 and 120B IPC read with Sections 5(2), 5(1)(D) of Prevention of Corruption Act 1947 read with Section 13(2) and 13(D) of Prevention of Corruption Act, 1988 and after investigation of the case, charge sheet (Annexure-9) was filed against the applicants without any cogent evidence in support thereof.

3.8. No offence is made out against the applicant as the act of filing of the reports was purported in pursuance of the order of the Competent Authority and in performance of their official duties and there is no allegation against the applicants that they have taken any illegal gratification from any person.

3.9. He also drew attention of the Court towards the fact that in the similar facts and circumstances, above referred Charge Sheet no. 6 of 1999 dated 27.05.1999 (Annexure-9) is being quashed in respect of the applicants of the Application under Section 482 Cr.P.C. No. 3996 of 2001, decided on 06.09.2017.

4. Learned A.G.A. opposed the above prayer of the applicant but could not show any material which may properly and effectively controvert the above submissions raised on behalf of the learned counsel for the applicants. He has also fairly conceded that above referred Charge Sheet no. 6 of 1999 dated 27.05.1999 (Annexure-9) has already been quashed in respect of the applicants of the Application under Section 482 Cr.P.C. No. 3996 of 2001,

decided on 06.09.2017.

5. Considering the rival submissions of the learned counsel for the parties, evidence and material available on record and to the fact that Charge Sheet no. 6 of 1999 dated 27.05.1999 (Annexure-9) has already been quashed in respect of the applicants of the Application under Section 482 Cr.P.C. No. 3996 of 2001, decided on 06.09.2017, I am of the view that in the facts and circumstances of the case, no offence is made out against the applicants and they are also entitled for the relief as claimed by them.

6. In view of the above, the application under Section 482 Cr.P.C. is allowed.

7. The charge sheet no. 6 of 1899 dated 27.08.1999 in Case Crime No.708 of 1993, under Sections 420, 467, 468, 471 and 120B IPC read with Sections 5(2), 5(1)(D) of Prevention of Corruption Act 1947 read with Section 13(2) and 13(D) of Prevention of Corruption Act, 1988, Police Station Civil Lines, Meerut, qua the applicants only, are hereby quashed.

Order Date :- 20.9.2017

Monika