

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No.348 of 2013

Vinay Kumar SinghRevisionist

Versus

State of Uttarakhand and anotherRespondents

With

Criminal Revision No.4 of 2014

Criminal Revision No.8 of 2014

Presence:-

Mr. B.S. Bhandari, learned counsel for the revisionist.

Mr. S.C. Dumka, learned A.G.A. for the State.

Hon'ble Pankaj Purohit, J.

These criminal revisions, namely Criminal Revision No.348 of 2013, Criminal Revision No.04 of 2014 and Criminal Revision No.08 of 2014, arise out of a common order dated 09.10.2013 passed by the learned Special Judge (Prevention of Corruption Act), Nainital, in Special Trial No.04 of 2013.

2. Since all the revisions emanate from the same set of facts, involve common questions of law and challenge the same order of cognizance, they are being decided together by this common judgment.

3. The brief facts of the case are that, the prosecution case arises out of alleged financial irregularities in the execution of flood relief works during the year 1992-1993 in District-Almora. On the basis of an enquiry report indicating misappropriation of government funds and irregularities in execution of works, an FIR being Crime No.2 of 1993 was registered under Sections 409, 420, 467, 167, 196, 120-B IPC and Section 13(1)(d) read

with Section 13(2) of the Prevention of Corruption Act, 1988.

4. Pursuant to the registration of the FIR, investigation was conducted by the C.B.C.I.D., and after completion of investigation, a charge-sheet came to be submitted against the accused persons, including the present revisionists. The learned Special Judge (Prevention of Corruption Act), Nainital, upon consideration of the material on record, took cognizance of the offences and summoned the accused persons vide order dated 09.10.2013, which is under challenge in the present revisions.

Criminal Revision No. 348 of 2013 (Vinay Kumar Singh)

5. It is contended by the learned counsel for the revisionist that the revisionist who was Junior Engineer during relevant period, has been falsely implicated in the present case without there being any cogent material to connect him with the alleged offences. It is submitted that the charge-sheet has been filed merely on the basis of assumptions and conjectures without any independent technical verification of the work allegedly executed. It is further argued that no specific role has been attributed to the revisionist demonstrating any dishonest intention or misappropriation of government funds.

6. It is vehemently argued by the learned counsel for the revisionist that the sanction necessary to initiate the prosecution as per the mandate of Section 19 of the Prevention of Corruption Act, 1988, was refused by the Government vide order dated 22.04.2014 which makes the entire proceeding *void ab initio* and *non est* in law.

7. It is also contended that the investigation suffers

from serious procedural irregularities and that the learned court below has taken cognizance in a mechanical manner without proper application of judicial mind. The impugned order, therefore, is liable to be set aside.

Criminal Revision No. 04 of 2014 (Hari Singh & others)

8. Learned counsel for the revisionist submits that the revisionists have been implicated solely on the basis of an enquiry report, which itself is vitiated by non-consideration of relevant material and absence of proper verification. It is contended that the revisionists had limited or no role in the execution of the alleged works and that no material exists to establish their complicity in the alleged offences. It is further submitted that the investigation has been conducted in a perfunctory manner and the charge-sheet does not disclose any prima facie offence against the revisionists. The order of cognizance is stated to be illegal, arbitrary and liable to be quashed.

Criminal Revision No. 08 of 2014 (Prem Prakash Singh)

9. It is contended that the revisionist who was a Junior Engineer had a very limited role in the execution of works and was assigned only a few work orders, whereas the majority of work orders were assigned to other officials. It is submitted that the work was in fact executed by the contractor and there is no material to show any misappropriation or wrongful gain on the part of the revisionist.

10. It is further contended that even in the departmental enquiry, the revisionist was not found guilty of the alleged charges and, therefore, continuation of criminal proceedings is unjustified. It is also argued that the impugned order has been passed without due

application of mind and without considering the material on record, and is therefore liable to be set aside.

11. It is further vehemently argued that no sanction to prosecute as required under Section 19 of the Prevention of Corruption Act, 1988, was granted from the Competent Authority in State and therefore the entire prosecution fails on the sole ground.

12. *Per contra*, learned counsel for the State has opposed the revisions and submitted that the impugned order has been passed after due consideration of the material collected during investigation. It is contended that the enquiry report, coupled with the material gathered during investigation, clearly discloses commission of cognizable offences and establishes a prima facie case against the revisionists. It is further submitted that at the stage of cognizance, the court is only required to examine whether sufficient grounds exist to proceed against the accused and not to conduct a detailed appreciation of evidence. The submissions raised on behalf of the revisionists pertain to disputed questions of fact, which can only be adjudicated during trial.

13. It is also contended that the learned court below has rightly exercised its jurisdiction in taking cognizance and summoning the accused persons, and no illegality or perversity is made out warranting interference in revisional jurisdiction. But there is no denial so far as refusal of sanction to prosecute is concerned in respect of Government Servants-Vinay Kumar Singh and Prem Prakash Singh.

14. I have considered the rival submissions advanced by the learned counsel for the parties and have perused the material available on record particularly the

refusal of sanction to prosecute dated 22.04.2014 as required under Section 19 of Prevention of Corruption Act, 1988. This Court is of the considered opinion that the case of State falls flat to its face and the entire proceedings are void, therefore, without going into the merits of the case this Court allows the Criminal Revision Nos.08 of 2014 and 348 of 2013. With respect to Criminal Revision No.04 of 2014 this Court is of the view that the revisionist deserves leniency on the grounds of parity as the co-accused *viz* Vinay Kumar Singh, Prem Prakash Singh could not be prosecuted as sanctioned required under Section 19 of the Prevention of Corruption Act, 1988 was refused on the grounds of prolonged trial of about 22 years. The same principle applies to revisionist of Criminal Revision No.04 of 2014 as well as they are also facing the same trial for 22 years and it will be just and equitable to release them on the same grounds as are available to Vinay Kumar Singh and Prem Prakash Singh.

15. This Court is also of the view that the prolongation of a criminal case for an unreasonable period is itself a kind of suffering. It amounts to mental incarceration for the person facing such proceedings. In the present day system of administration of justice in which proceedings have often go on protracted unreasonably and therefore unbearably, the passage of long time itself makes the person suffer a mental agony, therefore, this Court allows the criminal revision.

16. Let the Trial Court Record be sent back to the Lower Court for compliance.

(Pankaj Purohit, J.)
07.04.2026

SK+