

J.K. Singh Vs. the State of Delhi

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Court : Delhi

Decided On : Jul-28-1981

Reported in : 1982(3)DRJ32

Judge : M.L. Jain, J.

Acts : [Prevention of Corruption Act, 1947](#) - Sections 5(2); Criminal Law Amendment Act, 1952 - Sections 6(1)

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 332 of 1981

Appellant : J.K. Singh

Respondent : The State of Delhi

Judgement :

(1) The police submitted a challan in the Court of the Special Judge against Shri G. S. Jain (now dead). Manager, State Bank of India, New Delhi and five other persons belonging to some private concerns under sections 120-B and 109 read with Section 420 Indian Penal Code . and read with Section 5(2) of the Prevention of Corruption Act. G. S. Jain was separately also charged with Section 5(2) read with Section 5(1)(d) of Prevention of Corruption Act (the Act). Shri G.S. Jain challenged before the Special Judge that sanction for his prosecution was bad in law. Before the matter could be decided G. S. Jain died. The Special Judge held that the sanction for the prosecution was defective because it was accorded by the Chief General Manager while he was appointed by the Executive Committee of the Bank and could not therefore be removed by an authority subordinate to the said committee. It was then argued before the Special Judge that being so, no cognizance could be taken against G. S. Jain, and the Special Judge was and is precluded from proceeding with the case against the other accused. The learned Special Judge did not accept this argument and held that in spite of the fact that he could not have taken cognizance against Shri G. S. Jain, the case could proceed against the remaining accused persons. Hence this petition.

(2) CONTENTIONS:- It was contended if the offence under the Act cannot be prosecuted in the court of the Special Judge he has no jurisdiction to try the other accused persons because the other accused or guilty of offences under Section 120B/420 Indian Penal Code .

(3) Dismissing the petition it was held that :- According to Section 7(1) of the Criminal Law Amendment Act 1952 a Special Judge has exclusive jurisdiction to try the offences specified in sub-section (1), of Section 6 thereof. According to Section 6(1), such exclusive jurisdiction extends not only to an offence under Section 5 of the

Prevention of Corruption Act, but also to any conspiracy to commit or any attempt to commit or any abatement of any such offence. It does not matter, therefore, whether G. S. Jain is dead or alive, or whether sanction against him was good or bad the exclusive jurisdiction continues to vest in the Special Judge as long as the other persons are covered by clause (b) of sub-section (1) of Section 6.

(4) Sanction according to Section 5 of the Prevention of Corruption Act is necessary for taking cognizance only against a public servant. Since the petitioners are not public servants, no sanction is necessary in respect of them and the Special Judge can continue to try them. Indeed, he must because he alone is under the law competent to do so. As the Special Judge will be able to try them for the conspiracy to commit the offence under Section 5 of the Prevention of Corruption Act, he will equally be entitled to try them for the conspiracy to cheat in virtue of sub-section (3) of Section 7 of the Criminal Law Amendment Act.

(5) In view of the above it was held that there is no impediment in the way of the Special Judge to proceed with the trial against the petitioners and other accused persons.

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