

**A.F.R.**

**Court No. - 48**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 814 of 2021

**Petitioner :-** Ranveer Singh @ Ranbir Singh

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Shiv Sagar Singh, Manish Gupta

**Counsel for Respondent :-** G.A., Sanjay Kumar Yadav

**Hon'ble Munishwar Nath Bhandari, J.**

**Hon'ble Shamim Ahmed, J.**

Heard Sri Shiv Sagar Singh and Sri Manish Gupta, learned counsel for the petitioner and Sri Gyan Prakash learned Senior Counsel assisted by Sri Sanjay Kumar Yadav as well as Smt. Manju Thakur, learned Additional Government Advocate for the respondents.

By this writ petition, a challenge has been made to the order dated 28<sup>th</sup> January, 2020, sanction for prosecution under Section 19 of Prevention of Corruption Act, 1988 (in short "the Act of 1988").

Learned counsel submits that while the petitioner was working under Yamuna Expressway Industrial Development Authority, an order was issued by the Authority on 4<sup>th</sup> June, 2018. Direction was given to initiate departmental inquiry against the petitioner and others and at the same time for registration of F.I.R. The F.I.R. was lodged without a departmental inquiry. The petitioner was not named in the F.I.R. After the investigation, charge sheet was submitted against the petitioner also. The court took cognizance of the offence without sanction for prosecution and accordingly cognizance order was quashed by the High Court on a petition filed by the petitioner.

The sanction for prosecution was given thereupon. The court took cognizance of offence. The charges have also been framed by the Trial Court. It is submitted that order to sanction prosecution does not reveal application of mind of the competent authority which is otherwise a pre-condition in view of the judgment of Apex Court in the case of **CBI vs. Ashok Kumar Aggrawal, reported in (2014) 14 SCC 295**. The non application of mind is coming out from bare

perusal of the impugned order. It does not disclose or give reference of the FIR. The case is accordingly covered by the judgment in the case of **Ashok Kumar Aggarwal** (supra).

It is also that the FIR could have been lodged only after conclusion of the departmental inquiry and not prior to it as per the Government Order dated 24.05.2012. A direction has been given that F.I.R. against an employee or officer can be lodged after compliance of the order dated 19.7.2005. It is after conclusion of the departmental inquiry and if any offence is made out. The government order dated 10.11.2012 has not been complied before grant of sanction for prosecution, thus the impugned order deserves to be set aside.

We have considered the submission made by the learned counsel for the petitioner and perused the record.

The order dated 28.01.2020 has been challenged mainly on two grounds; one by referring to the order dated 24.5.2012. It is submitted that impugned order has not been passed in strict compliance to the aforesaid order. A perusal of the order dated 24.05.2012 shows that as and when lapse or illegality/irregularity is found in action of the government officer then after holding a departmental inquiry, if criminality is found, the FIR can be registered. We do not find letter to have sanctity of law. Neither Cr.P.C. nor the Act of 1988 mandates departmental inquiry before registration of the F.I.R. If crime has been committed, it is not mandatory to hold and depends on the departmental inquiry before lodging F.I.R. The Apex Court has permitted simultaneous proceeding of departmental inquiry and the criminal case. A reference to the judgment of the Apex Court in the case of **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd. and another, reported in (1999) 3 SCC 679** and **State Bank of Hyderabad & another Vs. P. Kata Rao** reported in **JT 2008 (4) SC 577** are relevant. The administrative order cannot override the statutory provision. The Cr.P.C provides for registration of F.I.R. on

the commission of offence and is not made subject to departmental enquiry. Accordingly, challenge to order dated 28.01.2020 on the strength of administrative order dated 24.05.2012 cannot be accepted. The last paragraph of the order is quoted herenunder for ready reference:

“4- इसके अतिरिक्त श्री रणवीर सिंह, तत्कालीन तहसीलदार सम्प्रति तहसीलदार, खैर (अलीगढ़), श्री चमन सिंह, तत्कालीन नायब तहसीलदार सम्प्रति तहसीलदार, यमुना एक्सप्रेसवे औद्योगिक विकास प्राधिकरण तथा श्री पंकज कुमार, लेखपाल/सम्प्रति जनपद बिजनौर को निलम्बित करते हुए इनके विरुद्ध विभागीय कार्यवाही प्रारम्भ करने का कष्ट करें, ताकि इनसे प्राधिकरण को हुई हानि की वसूली की जा सके। साथ-साथ इनके विरुद्ध प्रथम सूचना रिपोर्ट दर्ज कराने की अनुमति भी प्रदान करने का कष्ट करें। ”

The perusal of the para quoted above does not direct registration of the F.I.R. after conclusion of Departmental action. In this case, an F.I.R. was lodged and pursuant to it, investigation was conducted. The charge sheet has already been submitted finding evidence against the petitioner. The cognizance of the offence was taken after sanction for prosecution. The charges have also been framed against the petitioner.

The other argument of the petitioner is in reference to the judgment in the case of **Ashok Kumar Aggarwal**(supra). It is urged that the impugned order has been passed without application of mind. To analyse the argument, we have gone through the impugned order and find that it discloses offence committed by the petitioner while working as Tehsildar. Two FIRs have been lodged involving an amount of Rs.85.49 crores. The allegations against the petitioner have been narrated in the impugned order. It was passed after the investigation and the report submitted on 31.5.2018 at Annexure

No.2 to the writ petition. Any discussion about the offence may cause prejudice to either of the parties in the trial thus we are not going much on the facts when trial has already commenced.

It is true that a reference of the F.I.R. has not been given by the authorities in the order but only for that reason, the sanction for prosecution would not vitiate even when offence under Section 13(1)(c), 13(1)(d) and 13(2) of the Act of 1988 is found. The name of the petitioner came during the course of investigation and looked into by the competent authorities while passing the order. Accordingly charge sheet was filed followed by the order of cognizance of the offence after the sanction for prosecution. The charges have already been framed against the petitioner. Thus in view of the aforesaid, there remains no reason to interfere in the order of sanction for prosecution now.

In view of the discussion made above and taking note of the subsequent development after passing of the order of sanction for prosecution dated 28.01.2020, we do not find any ground to quash it. The charges have already been framed by the court against the petitioner. In view of the above, the petitioner can take any other ground for challenge to the order in the trial.

The writ petition, accordingly, fails and is **dismissed**.

**Order Date :-** 19.3.2021

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