

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 128 of 2016
(Arising out of SLP(Crl.) No. 8816 of 2011)

Deepak Surana and Ors. Appellants

Versus

State of Madhya Pradesh Respondent

ORDER

Uday U. Lalit, J.

1. Leave granted.

2. This appeal challenges the judgment and order dated 01.10.2011 passed by the High Court of Madhya Pradesh, Jabalpur in Criminal Revision No.649 of 2008. The High Court was pleased to set aside the order passed by the Special Court discharging the present appellants of the charges leveled against them.

3. Land admeasuring about 22.56 acres, situated at Mumbai-Agra Road in Indore belonging to one Smt. Sohan Kumari Sankhla and her son was subject matter of acquisition by the Indore Town Improvement Trust (subsequently, Indore Development Authority). The challenge in that behalf was pending in the High Court of Madhya Pradesh in Writ Petition No.1181 of 1988, during which pendency, a proposal was initiated by the then Additional Secretary in the Department of Housing on behalf of the State Government to release 7 acres of land to the land owners on no profit no loss basis. In view of such proposal, the aforesaid Writ Petition was disposed of by the High Court vide order dated 13.05.1996 directing Indore Development Authority to take appropriate decision in accordance with law.

4. Soon thereafter, four agreements for sale of certain parcels from the aforesaid land, admeasuring 5.50 acres in all, were said to have been executed. Though the intending purchasers in said four agreements were stated to be the appellants herein, the agreements in question were not signed by the appellants. The agreements were signed only by the prospective vendors namely, the aforesaid owners of the land.

5. Despite the aforesaid disposal of the Writ Petition by order dated 13.05.1996, since nothing was done in the matter, the land owners filed Writ Petition No.1437 of 1996 in the High Court submitting inter-alia that Indore Development Authority was avoiding implementation of the direction issued by the State Government. While this matter was so pending, a Public Interest Litigation being Writ Petition No. 511 of 1997 was filed challenging the decision of the State Government to release a portion of the land. This Writ Petition prayed for direction that the lands from the scheme of Indore Development Authority should not be permitted to be released. The High Court had issued notice in the matter and granted ex parte stay as prayed for.

6. Around this time, an FIR came to be lodged by Special Police Establishment, Lokayukta after conducting preliminary investigation. The basic allegations in this FIR dated 31.03.1998 were to the effect that a conspiracy was hatched between certain public servants including the then Ministers, Additional Secretary and the owners of the land. The object of that conspiracy was stated to be conferring undue advantage upon the owners of the land. The FIR alleged commission of offences punishable under Sections 13(1)(d) read with 13(2), Section 15 of the Prevention of

Corruption Act, 1988 read with Section 120B of the IPC. It is relevant to note that the names of the appellants do not find any mention in this FIR.

7. After due investigation, Special Police Establishment, Lokayukta filed charge sheet in Special Case No.9 of 1998 arising from the aforesaid FIR in the Court of Special Judge, Bhopal against 18 accused persons. The appellants were arrayed as accused in this charge sheet.

8. The Special Judge, Bhopal after considering the entire material on record came to the conclusion that there was no material to proceed against the appellants and therefore he discharged the appellants of the charges leveled against them. He, however, framed charges against rest of the accused persons including the public servants and the owners of the land. It was observed by the Special Judge that names of the appellants were neither mentioned in the FIR nor in the original complaint, that the agreements relied upon by the prosecution were unilateral in the sense that they did not bear the signatures of the appellants and that there was no mention how the alleged consideration was transferred. The Special Judge thus found that no case was made out by the prosecution to frame appropriate charges against

the appellants and he thus vide his order dated 15.01.2008 discharged the appellants.

9. The aforesaid order of the Special Judge was challenged by the State in Criminal Revision No.649 of 2008. By the judgment and order under appeal, the High Court allowed the said Revision. It was observed that merely because the agreement of sale did not bear the signatures of the appellants it would not mean that the agreements could not be relied upon. Certain material furnished by the appellants in support of their case was not taken into account by the High Court on the ground that the material furnished by the accused could not be considered at the stage of framing of charge.

10. This appeal challenges the correctness of the decision of the High Court. We have heard Mr. K. K. Venugopal, learned Senior Advocate in support of the appeal and Mr. Naveen Sharma, learned Advocate for the respondent-State. We have gone through the entire record and considered rival submissions.

11. In the present case, the agreements relied upon by the prosecution do not bear the signatures of the appellants. It is undoubtedly true that in *Aloka Bose v. Parmatma Devi*¹, it has been observed that an agreement of sale signed by the vendor alone is enforceable by the purchaser named in the agreement. But the question here is whether the appellants could be said to be involved in the conspiracy. The agreements in question were not even recovered from the custody of the appellants and were recovered from the vendors themselves. The agreements being unilateral and not bearing the signatures of the appellants, mere execution of such agreements cannot be considered as a relevant circumstance against the appellants. There is nothing on record to indicate that the consideration mentioned in the agreement could be traced to the appellants, nor is there any statement by any of the witnesses suggesting even proximity or meeting of minds between the appellants and any of the other accused. In the circumstances, the view that weighed with the Special Judge was quite correct. The High Court was not justified in setting aside the order passed by the Special Judge. In our considered view, the material on record completely falls short of and cannot justify framing of charges against the appellants.

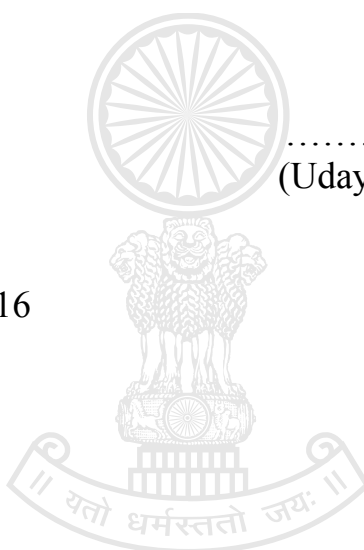
¹ AIR 2009 SC 1527

12. We, therefore, set aside the decision taken by the High Court in the judgment under appeal and restore the order dated 15.1.2008 passed by the Special Judge in Special Case No. 9/98. The appeal is thus allowed.

.....J.
(V. Gopala Gowda)

.....J.
(Uday Umesh Lalit)

New Delhi,
February 08, 2016



JUDGMENT