

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1209 of 1995

New Delhi this the 13th Day of September, 1995

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

Hon'ble Shri R.K. Ahooja, Member (A)

Shri Rajesh Kumar,  
No.D/2571,  
Son of Shri Tulsi Ram,  
Resident of House No. 19, Sarojini Park,  
Shastri Nagar,  
Delhi-110 031.

Applicant

(By Advocate: Mohd. Sajid)

Vs

1. Lt. Governor of National Capital,  
Territory of Delhi (through)Rs  
Commissioner of Police,  
I.P.Estate,  
New Delhi.

2. The Enquiry Officer,  
Assistant Commissioner of Police,  
DE/  
Cell Vigilance,  
Delhi.


Respondents

(By Advocate: Shri O.N. Trishal)

O R D E R

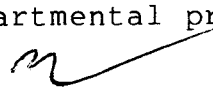
Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

The applicant who is a sub-inspector of Police under the respondents in this application says that the respondents may be directed to stay the departmental enquiry initiated vide Annexure I till the final disposal of the criminal case against the applicant in FIR No. 200/1995 of Police Station IGI Airport, Delhi under Section 342, 201, 218, and 219 of IPC. It is alleged in the application that the applicant is being prosecuted for offence under Section 342, 201, 218 and 219 of the IPC on the allegation that he arrested one Abdul Waheed Khan and wrongly confined him in custody




and that the Summary of Allegation in addition to the above allegations contained a further allegation that the applicant searched the house of Shri Abdul Waheed Khan and took out a sum of Rs. 21,000/- from his suit case, besides extorting Rs. 24,500/- and Mangal Sutra from his wife and that if the prosecution as also the departmental enquiry on the basis of these allegations are allowed to proceed simultaneously, the applicant would be considerably prejudiced in his defence. On this basis, the applicant prays that it is just and proper to direct the respondents to stay the departmental proceeding till the disposal of the case. As the pleadings of this case is complete and as the counsel on either side agreed, we dispose of this case finally at the admission stage itself.

2. The respondents in their reply have contended that the departmental proceedings are being initiated mainly for the misconduct of receiving illegal gratification and extortion, it cannot be said that the applicant is facing departmental proceedings as well as criminal prosecution for the identical charges. The respondents, therefore, contend that there is no justification in the prayer of the applicant that the departmental Enquiry should be stayed till the disposal of the criminal case. We have heard the counsel on either side. Shri Mohd. Sajid, the counsel of the applicant argued if the applicant is to defend himself in the departmental proceedings, he may have to divulge his defence in the criminal case which is likely to jeopardise his defence in the criminal case. According to the learned counsel to allow the departmental proceedings to proceed




while the criminal prosecution is also in progress will amount to denial of a reasonable opportunity to the applicant to defend himself before the criminal court. He invited our attention to many rulings of the Hon'ble Supreme Court as also of the Central Administrative Tribunal on the point. It is not necessary to refer to the authorities cited but suffice to say that the Hon'ble Supreme Court has been consistently holding that there is no hard and fast rule as to whether the departmental proceedings as well as the prosecution can go side by side although it has been held in many cases that in cases where the prosecution and the departmental enquiry are on the basis of identical accusation, it would be advisable to keep the departmental proceedings in abeyance till the disposal of the criminal proceedings. Here it cannot be said that the criminal proceedings as well as the departmental proceedings are on identical charges though there are some allegations which are similar. The learned counsel for the respondents stated that in case the departmental enquiry is stayed till the disposal of the criminal case which may take several years to conclude it may happen that witnesses may not be available for examination in the departmental enquiry leading to a situation where holding a proper enquiry would become impracticable. He further stated that if the departmental proceedings are allowed to proceed upto the stage of framing charge no prejudice would be caused to the applicant, who may enter on his defence only thereafter. The learned counsel therefore suggested that it would be appropriate if the applicant is disposed of with a direction to the respondents to proceed with the departmental enquiry




upto the stage of framing charges and then to keep it in abeyance till the criminal case is disposed of. We are of the considered view that this is a reasonable suggestion which will take care of the interest of the applicant as also of the respondents.

3. In the result the application is disposed of with the following directions"

4. The respondents shall proceed with the departmental enquiry against the applicant upto the stage of framing the charge and thereafter keep the further proceedings pending till the criminal case pending against the applicant on the basis of FIR under FIR No. 200/95 of PS IGI Airport under Section 342, 201, 218, 219 of the IPC is disposed of by the Criminal Court.

  
(R.K. Ahooja)  
Member (A)

  
(A.V. Haridasan)  
Vice Chairman (J)

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