

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 963/1994

9

New Delhi, dated the 19th Jan., 1995

CORAM

Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Sohan Pal
r/o Barrack No. 2 Teen Murti,
Traffic Police Lines, Teen Murti,
New Delhi.

Shri Yaseen Khan
r/o 1617/14, Govindpuri, Kalkaji

... Applicants

(By Advocate Shri A.S. Grewal)

v.s

1. Commissioner of Police, Delhi
Delhi Police Headquarters, MSO Bldg.,
I.P. Estate, New Delhi.
2. Deputy Commissioner of Police (Traffic)
Delhi Police Headquarters,
MSO Bldg., I.P. Estate, New Delhi
3. T.I. Tilak Nagar Circle, Rajouri Garden,
New Delhi (E)

... Respondents

(By Advocate Shri Jog Singh)

JUDGMENT (ORAL)

(Hon'ble Shri S.R. Adige, Member (A))

In this application, Shri Sohan Pal Singh
and Shri Yaseen Khan, both Constables, Delhi Police
have prayed that the departmental enquiry instituted
against them be stayed till the decision of ^{the Criminal} case being

FIR No. 463/93 u/s 384/34 IPC P.S. Kamla Market.

10

2. Shortly stated, ~~that~~^{the} the applicants are being proceeded against^{by the} the charge that on 17-9-93 they intercepted one Shri Satish Kumar on G.B. Road while he was going for his work. Both the constables accused him of ulterior motives for his presence at G.B. Road and took him near P.S. Kamla Market and extorted from him Rs 3000/-. They also demanded a further sum of Rs 7000/- from him. It is stated that the victim then went to his brother-in-law house and returned with his brother-in-law. At about 8.30PM both the applicants who were subsequently identified as Traffic constables ~~who~~ allegedly come out from the police station premises, followed by the complainant[^] and his brother in law. Despite their request to the applicants to refund the amount, both applicants denied the allegation of having taken any amount from them. It is further stated that on 18.9.93, the complainant with the help of another constable^{B. 4} was able to identify the two applicants as[^] alleged culprits and subsequently Shri Satish Kumar lodged a complaint at Police Station, Kamla Market and[^] case was registered^{vide} FIR No.463 u/s 384/34IPC.

3. Both the applicants were identified by the complainant in the presence of the S.H.O. Kamla Market and were also arrested.

4. A[^] Charge sheet was submitted which is presently pending before the Trial court.

11

5.. On a perusal of the charge sheet in the criminal case it appears that the charges are substantially the same as those contained in the D.E. charge sheet and the PWs are also common to both.

6. We have given anxious consideration to the applicants prayer for staying of the D.E. pending decision in the criminal case against him. In this connection, the Hon'ble Supreme Court in Kusheshwar Dubey v. Bharat Coking Coal Ltd. (AIR 1988 SC 2118) has held that while there could be no legal bar for simultaneous proceedings being taken against the delinquent employee against whom disciplinary proceedings were initiated, yet, there may be cases where it would be appropriate to defer disciplinary proceedings, awaiting disposal of the criminal case, and when the disciplinary proceedings were grounded upon the same facts as the criminal case, the disciplinary authority ^{could} ~~can~~ be stayed.

7. As stated above the charge sheet in the D.E. and the charge sheet in the criminal case are grounded upon the same facts, and the prosecution witness are also common to both. Under the circumstances, there is little doubt, that if the D.E. is allowed to proceed, it is liable to prejudice the applicant in his defence in the criminal case.

8. Under the circumstances, the prayer of the applicant is allowed to the extent that respondents are directed to keep the D.E. pending till the disposal of the

12

criminal case bearing FIR No.463/93 u/s 384/30 IPC
P.S.Kamla Market with liberty available to them to
revive the D.E. in accordance with law, ^{and} the
extant rules on the subject upon conclusion of the
criminal case, if so advised.

9. No costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)

S.R. Adige
(S.R. Adige)
Member(A)