

STATE OF GUJARAT V. MANSUKHBHAI KANJIBHAI SHAH

COURT: The Supreme Court of India

DELIVERED ON: 27 April 2020

BENCH: Justice N.V. Ramana, Justice Sanjay Kishan Kaul, and Justice B.R. Gavai

APPLICABLE LAWS: The Prevention of Corruption Act, 1988, Section 2 in The Prevention of Corruption Act, 1988, Section 2(c) in The Prevention of Corruption Act, 1988, Section 2(c)(xi) in The Prevention of Corruption Act, 1988, The Indian Penal Code

FACTS

1. This Appeal is from the reviled judgment and last request dated 02.02.2018, passed by the High Court of Gujarat at Ahmedabad in Criminal Revision Application (against Order passed by Subordinate Court) No. 1188 of 2017.

2. The respondent in this is purportedly a Trustee of trust called the Sumandeep Charitable Trust, which built up and supports 'Sumandeep Vidyapeeth', a considered University, which is the organization concerned thus.

3. Brief realities essential for proceedings of the case are that an FIR, being I-ER No. 3 of 2017, dated 28.02.2017 was documented by one Dr. Jasminaben, spouse of Dilipbhai Devda, before the Vadodara City A.C.B. Police headquarters against four charged people including the current respondent. Comprehensively, the charges were that the complainant's senior little girl was admitted to the MBBS Course in the above-mentioned Deemed University in the year 2012. Her girl's course expense was settled according to the yearly charge piece. In the year 2017, her senior little girl while topping off her last assessment structure was approached to meet the respondent in this. On meeting, the respondent, in intrigue with others, had imparted that the complainant's better half needed to additionally pay Rupees Twenty Lakhs for permitting the complainant's little girl to take the assessment.

4. Further, it is affirmed that the accused-respondent had conveyed that they can store a check and the equivalent would be returned on the instalment of money, taking into account that demonetization had as of late occurred. Instead of the equivalent, checks were stored with the accused- respondent in this. From that point, the complainant, who was reluctant to pay the sum, recorded the FIR.

5. After following the essential technique, phenolphthalein powder was applied to the cash notes and was conveyed to charged Vinod nom de plume Bharatbhai Savant (the supposed buddy/operator of respondent through whom the interest was encouraged). From there on, blamed Vinod affirmed the receipt for cash to the respondent via phone. The previously

mentioned implicating discussion stood caught in a sound camcorder set up by the complainant. Further, separate attacks were directed whereupon a few undated checks attracted the name of the foundation worth more than Rs. 100 crores and certain fixed stores were recouped.

6. The charge sheet came to be recorded on 25.04.2017 against a few denounced people, including the current respondent for different offenses under Sections 7, 8, 10 and 13 (1)(b) and 13(2) of the Prevention of Corruption Act, 1988 [hereinafter alluded to as the 'PC Act'] read with Section 109 of Indian Penal Code, 1860 [hereinafter alluded to as the 'IPC'],.

7. The respondent in this recorded a release application under Section 227 of CrPC before the District and Sessions Court in Special ACB Case No. 2 of 2017. The District and Sessions Court by a request dated 29.11.2017, dismissed the application.

8. Disheartened by the dismissal of the aforementioned application, the respondent in this recorded a criminal amendment application, being Criminal Revision Application No. 1188 of 2017, under the watchful eye of the High Court of Gujarat, at Ahmedabad. The High Court, by the decried judgment and request dated 02.02.2018, permitted the update and released the accused-respondent in this.

9. Disheartened by the reprovved request, the State of Gujarat is in advance under the watchful eye of this Court.

10. The senior guidance for the benefit of the litigant presented that the PC Act is an extensive resolution which was passed to forestall debasement and subsequently, ought to be interpreted generously as the council planned to incorporate the previously mentioned acts, which hurt people in general everywhere, inside the ambit of the PC Act. The PC Act is a social enactment proposed to check criminal operations of local officials and is intended to be understood to propel its goals. The Courts, while remembering the open intrigue, must guarantee that details ought not to vanquish the article looked to be accomplished.

11. The direction further contended that open capacity need not be the selective space of the State; private establishments, for example, colleges may likewise play out an open capacity. The guidance set dependence upon *Modern Dental College and Research Center v. Territory of Madhya Pradesh*, (2016) 7 SCC 353 and *Janet Jeyapaul v. SRM University*, (2015) 16 SCC 530 to express that conferring training to the general population is a government assistance movement and subsequently can be called as an action accomplished for open great. Thinking about the UGC rules, the guidance presented that Deemed Universities adequately release the open capacity of conferring training to people in general.

12. Besides, the insight set dependence upon the instance of *K. Veeraswami v. Association of India*, (1991) 3 SCC 655 to present that there is no prerequisite of having a master-servant connection between the capable position and the local official. The PC Act does not characterize community worker, rather, it gives classifications of the equivalent. The insight further expressed that the absence of any power to allow the approval can't bring about any prosecution. In such circumstances, there is no need for getting authorized. Regardless, the approval was gotten from the Charity Commissioner out of plentiful alert.

13. In conclusion, the guidance presented that the respondent was releasing an open obligation. In the current realities, it was a pre- condition to pay the respondent before getting an assessment pass, even though he was never officially doled out this errand or job. The direction in this way reasoned there need not be a necessity of positive order under the law to release his open obligation. Truth be told, there may not be any conventional prerequisite of giving compensation or instalment in lieu of the administration rendered.

14. Despite what might be expected, the direction for the respondent presented that it is a settled rule of law that a criminal resolution must be understood carefully. In situations where two translations are conceivable, the Courts must lean towards the development which excludes the subject from punishment as opposed to the one which forces the equivalent.

15. The insight further passionately contended that the respondent, being a trustee, can't be named as a Public Servant. There is no claim in the charge sheet that the respondent was holding any position or post in the foundation which was Deemed to be University or that he was locked in by the establishment for rendering any assistance. Considering the above certainty, the High Court was right in releasing the respondent as he does not qualify inside the ambit of Section 2 (c)(xi) of the PC Act.

16. Also, the advice contended that the High Court has effectively held that the applicable arrangement as set down under Section 2 (c) (xi) is inapplicable in the current case as the said Institution was an "esteemed to be college". At last, the insight contended that no legitimate or appropriate authorization was acquired for arraigning the respondent. The approval acquired from the Charity Commissioner is not legitimate as he can't be considered as a Competent Authority, since he doesn't have the ability to expel or designate a Trustee.

ISSUES

1. Whether the respondent-trustee is a 'public servant' covered under Section 2(c) of the PC Act?
2. Whether the accused-respondent can be discharged under Section 227 of CrPC?

RULES

The Prevention of Corruption Act.

Indian Penal Code.

Other acts as mentioned.

ANALYSIS

1. The main inquiry before us, that is, regardless of whether the respondent, who is supposedly a trustee in the Sumandeep Charitable Trust which built up and supports the said University ('Deemed to be University') is a 'community worker' secured under Section 2(c) of the PC Act, can be separated into two sections: first, whether the 'Considered University' is secured under

the arrangements of the Prevention of Corruption Act, 1988, and besides, whether the 'respondent-trustee' can be named as 'local official' under Section 2(c)(xi) of the PC Act?

2. Before we continue further, we must watch the applicable arrangements under the PC Act:

2(c.). "community worker" means- (xi) any individual who is a Vice-chancellor or individual from any administering body, educator, instructor or some other instructor or worker, by whatever assignment called, of any University and any individual whose administrations have been benefited of by a University or some other open expert regarding holding or leading assessments.

3. Just talking, any individual, who is a Vice-chancellor, any individual from any overseeing body, educator, speaker, some other instructor or representative, by whatever assignment called, of any University, is supposed to be a local official. Further, the definition entombs alia, covers any individual whose administrations have been benefited from by a University, or some other open expert regarding holding or leading assessments.

4. Nonetheless, the interpretative need emerges for this situation because of the way that the ambit of the term 'College', as happening under Section 2(c)(xi) of the PC Act, has not been unmistakably characterized and the inquiry emerges with regards to whether similar spreads 'considered to be University' too. In such a manner, we have to watch certain standard procedures on translation, concerning the PC Act.

5. There is no repudiating that countries are based upon trust. It is unavoidable that in a majority rule government one needs to depend on those with force and impact and to confide in them of being straightforward and reasonable. There is no uncertainty that any activity which is driven by the self-enthusiasm of these influential people, as opposed to the open intrigue, crushes that trust. Where this turns into the standard, majority rules system, the economy, and the standard of law, all get destroyed, at last putting the entire country in danger. Degenerate social orders frequently spring from the models set at the most significant levels of government, yet small-scale debasement can be similarly deceptive. In such a manner, the PC Act was planned to achieve straightforwardness and trustworthiness in open life, as showed by its items and reasons. We have to remember the previously mentioned authoritative goal while deciphering the arrangements of the PC Act.

6. Learned senior advice for the appellant State, fervently fought that the PC Act, being a government assistance enactment, can't be barely deciphered, and rather, that a wide translation should be accommodated the equivalent [refer State of Madhya Pradesh v. M. V. Narasimhan, (1975) 2 SCC 377; M. Narayanan Nambiar v. Province of Kerala, (1963) Supp. (2) SCR 724].

7. The brilliant standard of understanding for any correctional enactment is to decipher the equivalent carefully, except if any established contemplations are included, and in instances of equivocalness, the advantage of the equivalent ought to ensure for the denounced. Having said as much, we have to explain that severe understanding doesn't mean strict translation in all cases, rather the understanding ought to have respects to the veritable import of the words,

taken in their typical sense [refer Commissioner of Customs (Import), Mumbai v. Dilip Kumar and Company, (2018) 9 SCC 1].

8. Nonetheless, we are concerned thus with deciphering the arrangements of the PC Act. There is no debate that debasement in India is unavoidable. Its effect on the country is progressively articulated, because of the way that India is yet a creating economy. By and by, it very well may be expressed that defilement in India has become an issue that influences varying backgrounds.

9. In this unique situation, we should express that although anti-corruption laws are genuinely tough in India, the permeation and authorization of the equivalent are in some cases scrutinized as being inadequate. Because of this, the protected goals of financial and social equity are relinquished every day. It is in the above set that we must determine the issues concerned in this.

10. We will in like manner have due respect to the previously mentioned standards while deciphering the arrangements thus. The purpose of conflict identifies with whether a regarded University would be incorporated inside the ambit of the PC Act, especially under Section 2(c)(xi) of the equivalent, where the word utilized is "College". The scholarly senior direction for the appellant State presents that "College" as utilized in Section 2(c)(xi) of the Act, must be purposively deciphered. An organization that is "esteemed to be a University" under the University Grants Commission Act, 1956 [UGC Act] assumes a similar job in the public eye as a "College". These establishments have the basic open obligation of conceding degrees, which are eventually capabilities perceived in the public eye. All things considered, an organization that is "regarded to be University, for example, the foundation in the current case, is incorporated inside the ambit of the expression "College" utilized under the Act.

11. Then again, the educated senior insight for the respondent, supporting the choice of the High Court in the denounced judgment, presents that the expression "College" as utilized in Section 2(c)(xi) of the PC Act, does exclude an establishment which is "considered to be a University". The scholarly senior advice presented that the comprehensive meaning of a "College" under the UGC Act is just for the restricted motivation behind subsidizing, and an establishment which is "regarded to be a University" isn't a University for some other reason. The educated senior direction presented that the equivalent is plentifully obvious from the arrangements of the UGC Act, which makes a qualification between a "College", and an establishment "other than a University" which is "regarded to be a University".

12. The direction for the respondent has battled that the expression "College" should be perused as per Section 2(f), 3, and 23 of the UGC Act, wherein a "regarded University" is unique concerning a "College", strict sense. Be that as it may, we don't buy into such conflict for the reasons given beneath.

13. The dispute of the respondent is that the expression "College" should be perused as per the UGC Act, wherein just those Universities secured under the Section 2(f) of the UGC Act are secured under the PC Act. Such an understanding, by bringing in the specialized definition

under an alternate Act may not be possible in this. It is a settled law that specialized definitions under one rule ought not to be imported to another rule which isn't in pari materia with the first. The UGC Act and the PC Act are establishments that are unmistakable in their motivation, activity, and article. The preface of the UGC Act expresses that it is 'an Act to arrange the co-ordination and assurance of measures in Universities, and for that reason, to set up a University Grants Commission'. Then again, the PC Act is an institution intended to control the social evil of debasement in the nation. All things considered, the augmentation of specialized definitions utilized under one Act to the next probably won't be proper, as the two Acts are not in pari materia with each other.

14. The above standard of law was as of late applied by a 3-Judge Bench of this Court in Bangalore Turf Club Ltd. v. Provincial Director, ESI Corporation, (2014) 9 SCC 657, where a contention was progressed by counsel that the understanding of the term 'shop' under the ESI Act ought to be resolved considering the meaning of the equivalent under the important Shops and Commercial Establishments Act.

15. This carries us to the end that implies of UGC Act can't be acquired under the PC Act, and that free importance should be accommodated the expression "College" as happening under the PC Act. In India, there are 12,206 Universities under Section 2(f) and 12B of the UGC Act, as of 31.07.2019. While there are around 124 regarded colleges across India, as of 23.06.2008. The training part in India has seen a general ascent. There is no question that the training segment, which is a significant assistance division in the nation, has seen different outrages. In this specific situation, we have to comprehend whether a considered college would be secured inside the ambit of Section 2(c)(xi) of the PC Act.

16. On scrutiny of Section 2(c) of the PC Act, we may see that the accentuation isn't on the position held by an individual, rather, it is on the open obligation performed by him/her. In such a manner, the authoritative aim was to not give a thorough rundown of specialists which are secured, rather a general meaning of 'local official' is given thereunder. This gives a significant inside proof with regards to the meaning of the expression "College".

17. The utilization of 'any' is basic in our understanding with regards to the term University. We know about the line of specialists, wherein this Court has decreased the effect of the term 'any' to not signify 'each' [See Hira Devi v. Region Board, Shahjahanpur, (1952) S.C.R. 1122]. Be that as it may, we can't acknowledge such a view as the setting in which the current question radiates, contrasts from the abovementioned.

18. Our consideration was additionally attracted to the notes on statements of Prevention of Corruption Bill dated 20.02.1987. Provision 2 of the Notes on Clauses in the Gazette of India, Extraordinary, Part II, Section 2, explains the authoritative goal.

19. Furthermore, our consideration is attracted to the authoritative discussions which occurred preceding the establishment of the PC Act. It was uniform over the partisan principal that the reason for forestalling defilement in instructive establishments was underlined.

20. Coming to outer guides of understanding, "College" is etymologically gotten from the Latin, Universitas magistrorum et scholarium, which generally signifies the "network of educators and researchers".

21. Under the UGC Act, University is defined and recognized.

22. A 'deemed to be University' is recognized under Section 3 of the UGC Act.

23. As discussed earlier, the object of the PC Act was not only to prevent the social evil of bribery and corruption but also to make the same applies to individuals who might conventionally not be considered public servants. The purpose under the PC Act was to shift focus from those who are traditionally called public officials, to those individuals who perform public duties. Keeping the same in mind, as rightly submitted by the learned senior counsel for the appellant State, it cannot be stated that a "Deemed University" and the officials therein, perform any less or any different a public duty, than those performed by a University simpliciter, and the officials therein.

24. Therefore, for all the above reasons, we believe that the High Court was incorrect in holding that a "Deemed University" is excluded from the ambit of the term "University" under section 2(c) of the PC Act.

25. In the present case, on a prima facie evaluation of the statements of the Gaurav D. Mehta (the Vice chancellor); Mr. Pragneshkumar Rameshbhai Trivedi (account officer of Sumandeep Vidhyapith University) and other witnesses it appears that the present respondent was the final authority concerning the grant of admission, collection of fees and donation amount.

26. The charge sheet specifically discloses that the respondent allegedly was collecting certain extra amount over the prescribed fees on the pretext of allowing the students to fill up their examination forms. Therefore, paying the respondent the alleged amount was a condition precedent before filling up the forms, to appear for the examinations. Specifically, in the complaint, it was alleged that the respondent had demanded an amount of Rupees Twenty Lakhs to be paid to the caucused Bharat Savant, failing which the daughter of the complainant would not have been permitted to appear in the examination. In our opinion, the fact that there were many cheques which were found during the raid is more than sufficient to establish a grave suspicion as to the commission of the alleged offence.

27. The respondent has vehemently stressed upon the fact that he is admittedly a trustee of the "Sumandeep Charitable Trust" and has no connection with the "Sumandeep University". But, it ought to be noted that the courts below have failed to analyse the connection between the trust and the University, as well as the relationship of the respondent with the university. Prima facie, a grave suspicion is made out that the respondent was rendering his service by dealing with the students and the examination aspect of the University. But a detailed appreciation of evidence is called for before one can conclude as to the exact position of the respondent vis-à-vis the University.

28. Therefore, in line with the aforesaid proposition, this case is not an appropriate one to have exercised the power to discharge the accusedrespondent herein, having regard to the facts and circumstances of the case. However, it should be noted that this judgment is rendered for a limited purpose, and we have not expressed any opinion on the merits of the case. The trial court is directed to proceed with the case expeditiously.

CONCLUSION

Accordingly, the impugned judgment of the High Court is set aside. The appeal is allowed.



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