



2023 INSC 673

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 389/2011

DELHI DEVELOPMENT AUTHORITY APPELLANT(S)

VERSUS

VANDANA GUPTA RESPONDENT(S)

O R D E R

This appeal is at the instance of the Delhi Development Authority (for short, "the DDA") and is directed against the impugned order dated 07.01.2010 passed by the High Court of Delhi in the Criminal Leave Petition No. 83 of 2007 filed by the appellant by which the High Court declined to grant leave to appeal against the judgment and order of acquittal passed by the trial court in the Criminal Case No. 103 of 2002 on the file of the Metropolitan Magistrate, New Delhi.

It appears from the materials on record that a complaint came to be lodged by the appellant - DDA against the company by name - M/s Dhampur Alco Chem. Ltd. (original accused No.1) and four of its Directors. The complaint was lodged under Section 14 read with Section 29 (2) of the Delhi Development Act, 1957 (for short "Act, 1957"). It is the case of the appellant - DDA that the company and its directors started using the premises bearing House No. 24 situated at School Lane, Bengali Market, New Delhi, contrary to the

purpose for which the original plan was sanctioned. To put the accused persons for trial, sanction was also obtained under Section 49 of the Act, 1957 *vide* order dated 27.02.2002. The Metropolitan Magistrate took cognizance upon the complaint lodged by the appellant - DDA, which ultimately came to be registered as the Criminal Case No. 103 of 2022. In the trial, the company and two of its directors came to be convicted for the alleged offence, whereas the respondents came to be acquitted.

The appellant - DDA, feeling aggrieved by the order of acquittal passed by the trial court, went to the High Court and prayed for leave to appeal under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."). The High Court declined to grant leave.

In the circumstances referred to above, the appellant - DDA has come up before this Court by way of the present appeal.

Having heard the learned counsel appearing for the parties and having gone through the materials on record, we see no error, much less any error of law, in the impugned order passed by the High Court declining to grant leave to appeal.

The finding of fact recorded by the trial court with regard to the two directors who came to be acquitted is that there was nothing on record to indicate that they were in charge of the day-to-day affairs/management of the company. It is required to be noted that it is the company as a legal entity which was sought to be prosecuted, and the directors were prosecuted by virtue of their vicarious liability under Section 32 of the Act, 1957. It appears

that the two directors (respondents herein), who came to be acquitted were in a position to lead evidence to establish that they were not in day to day affairs/management of the company.

In the result, the present appeal fails and is hereby dismissed.

Pending application(s), if any, shall stand disposed of.

.....J.
(J.B. PARDIWALA)

.....J.
(MANOJ MISRA)

NEW DELHI;
AUGUST 02, 2023.