

IN THE HIGH COURT OF SINDH AT KARACHI

Present: Ahmed Ali M. Shaikh, CJ and Omar Sial, J

C.P. No. D – 1534 of 2020

Ghulam Mohiuddin Qadri v. The State & another

Mr. Jaffer Raza, Advocate for petitioner.

Mr. Riaz Alam Khan, Special Prosecutor NAB.

ORDER

Omar Sial, J: Ghulam Muhiuddin Qadri, the petitioner, is one of the accused facing trial in Reference No. 49 of 2015. He filed an application under section 265-K Cr.P.C. before the learned Accountability Court No. 2 at Karachi which was dismissed by the learned trial court on 13-2-2020. It is this order of the learned trial court that has been challenged in these proceedings.

2. A background to the case against the petitioner is that NAB investigation revealed that 13 plots of land each measuring 293.33 square yards were illegally created on government land which was reserved for a water pipeline of KW&SB and a high tension electric wire of K-Electric. Third party interest was created on the said land subsequently. The allegation against the petitioner is that he in collusion with others conducted and signed a false and illegal physical survey report and further issued site plans for the area despite the fact that the allotments made had subsequently been cancelled.

3. The learned counsel for the petitioner has argued that stressed on the ground that the petitioner is innocent as he had retired in the year 2001 and that prior to his retiring the joint survey as well as all steps connected with it were cancelled by the Governing Body of the KDA. In support of his argument he has relied on extracts of decisions taken by the Governing Body of KDA. Further, he has argued that the allotment of the land subsequent to the cancellation of the joint survey report was conducted in the year 2008, a time when the petitioner was no longer in service. Upon a query as to whether the petitioner would be absolved of any illegal act, even if the joint survey plan allegedly wrongly prepared was subsequently cancelled and he retired, the learned counsel's stance was that the cancellation of the plan would finish the petitioner's liability.

4. We appreciate the arguments raised by the learned counsel but are of the view that in order to establish the veracity of the defence taken by him, recording

of evidence is necessary. Further, prima facie we are not satisfied that if an illegal act was committed the same would be invalidated by the mere fact that the plan was subsequently cancelled. A number of documents will have to be examined at trial and testimonies recorded before the learned trial court will be in a position to adjudicate upon the innocence or otherwise of the petitioner. At this stage we are not satisfied that it can be said conclusively that the charge against the petitioner is groundless or that there is no possibility of conviction.

5. In view of the above, we do not find any reason to interfere with the impugned order. Accordingly, the petition is dismissed.

JUDGE

CHIEF JUSTICE