Up to Date Case Laws

SOME IMPORTANT CRIMINAL LAWS

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RAHIM LAW BOOK HOUSE

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Acid Aporadh Daman Ain, 2002 [II of 2002]

Sections 5(Ka), 5(Kha)-The inconsistencies, discrepancies and the impro-babilities revealed from the evidence of the prosecution witnesses casts a serious doubt upon the whole prosecution story and thus High Court Division held that the prosecution had not been able to bring home the charge against the appellant.

The State Vs. Md. Emadul Haque (Criminal),
12 ALR (2018)(1)-AD-58.

Acid Aporadh Daman Ain [II of 2002]

Sections 5(Ka) and 7

The evidence of witnesses sufficiently proved the prosecution case that the accused person threw acid on the victim Jharna Begum causing serious burn injuries on different parts of her body including the right chin and throat. Considering the very allegation and the evidence on record the trial court rightly convicted this accused-person.

The Appellate Division observed that it appears that in this case the prosecution adduced sufficient evidence to prove the charge against the accused persons. The victim Jharna Begum herself has deposed before the Tribunal stating that this accused-petitioner Milon and accused Hamid Molla threw acid on her from a steel glass causing burn injuries on different parts of her body and at that time she recognized the accused Milon and Hamid Molla. The other P.Ws. including Halima Begum the mother of the victim has strongly corroborated the victim Jharna Begum. These witnesses deposed that they saw the accused persons with the light of torch when they were fleeing away and that they also heard about the occurrence from the victim Jharna Begum immediate after the occurrence. Two doctor witnesses also has deposed in this case stating that there were several burn injuries on the person of the victim Jharna Begum which was caused by corrosive substance. The evidence of these witnesses sufficiently proved the prosecution case that this accused-petitioner Milon along with co-accused Hamid Molla and others threw acid on the victim Jharna Begum causing serious burn injuries on different parts of her body including the right chin and throat. Considering the very allegation and the evidence on record the trial court rightly convicted this accused petitioner and others to rigorous imprisonment of 14 years. The High Court Division however, reduced the sentence of this accused petitioner to 7 years imprisonment. However, Appellate Division finds no reason to allow this Criminal Petition for Leave to Appeal and hence it is dismissed.

Milon Vs. The State,
12 ALR (2018)(1)-AD-85.

Acid Oparadh Daman Ain, 2002

Sections 5(ka) and 5(kha):

The inconsistencies, discrepancies and the improbabilities revealed from the evidence of the prosecution witnesses casts a serious doubt upon the whole prosecution story (Para 10)

State Vs. Md. Emdadul Hoque,

4 CLR (2016)-AD-120.

Anticipatory bail: High Court Division cannot exceed power of ad-interim bail:

Since the case is under investigation, we are of the view that the High Court Division has exceeded its discretionary power in admitting the accused on ad-interim bail. The ad-interim bail granted to the accused by the High Court Division is hereby cancelled (Para 2)

State V. Amir Hamza

4 CLR (2016)-AD-6.

Acid Aparadh Daman Ain, 2002

Section 13

The learned Judge of the Tribunal acted in accordance with the law in bringing the matter to the notice of the authority concerned in accordance with section 13 of the Acid Aparad Daman Ain, 2002. We also note that the learned Judge of the Tribunal observed that all three Investigating Officers were negligent in their duties and a direction to the authority concerned was regarding all three of the Investigating Officers of that case. . . .(11)

Government of Bangladesh vs. Ranjit Krishna Mazumder

(Muhammad Imman Ali .J).

14 ADC (2017)-Page-141

Section 24(3)

In view of the provisions of section 24 (3) of the Acid Aparad Daman Ain, 2002 the Tribunal can take cognizance of the offence rejecting the police report if it finds sufficient materials in the police report. In the impugned order the learned judge did not assign any cogent reason in taking cognizance of the offence against the accused persons and hence the impugned order is set aside.

Jalal Hazra vs. The state and another, (Criminal),

3 LNJ (2014)-HCD-21

Anti-Corruption Act, 1957 (XXVI of 1957)

Anti-Corruption Act, 1957 (XXVI of 1957)
Ss. 2, 3(2), 4, 5 & 6

The Police officers or the Anti-Corruption officers empowered and authorised by the notification dated 23-8-1972 can investigate into the customs offences under S. 156 of the Customs Act, 1969.

A.K.Reazul Karim Vs. State, BCR 1983 AD-420.

Section-3

Anti-Corruption Manual

Paragraph—59

Code of Criminal Procedure, 1898, (V of 1898)

Section—561A

In view of the provisions of section 3 of the Anti-Corruption Manual the investigation held by an Assistant Inspector of the Bureau of the Anti-Corruption was not illegal and without jurisdiction.

The investigation by an Assistant Inspector does not per se become illegal and without jurisdiction. A proceeding cannot also be quashed merely because there is irregularity, if any, in the investigation.

Md. Abul Hossain Vs. The State,
19 BLD (AD)-97.

Section 3(2)—Subject to any order of the Government, officers of the Bureau of Anti-Corruption shall have power to enquire or hold investigation throughout Bangladesh and shall have such powers which the police officers are empowered in connection with investigation.

Shamsuddin Ahmed Vs. State,
65 DLR (2013)-HCD-248.

Anti-Corruption Act (XXVI of 1957)

Section 3—Investigation by an ASI does not per se become without jurisdiction and a proceeding cannot be quashed mainly because there is irregularity, if any, in the investigation.

Ziauddin Ahmed vs State (Criminal)
21 BLC (2016)-HCD-140.

Anti-Corruption Act, 1957 (Act No. XXVI of 1957)

Section 3(2)-Issuance of notice under section 3(2) does not render the notice-recipients accused persons in criminal cases;

Since the Bureau of Anti-Corruption has authority to issue notice under section 3(2) of the Anti-Corruption Act,1957, the issuance of notices do not offend the fundamental rights as guaranteed under Article 3594) of the Constitution, for they have not been identified as accused in connection with any criminal case. (Para 11).

Altaf Hossain Molluh Vs. Government,
2 CLR (2014)-HCD-68.

Section 3(2)-Notice under section 3(2) of the Anti-Corruption Act, 1957 is a part of fact finding process only and it does not render the recipient an accused person in the eye of law: By issuing a notice under section 3(2) of the Anti-Corruption Act, 1957 of the officer concern had requested the respective petitioners to appear with supporting documents in order to assist the inquiry process towards finding the basis of the allegations so have been brought against them. The said process is merely a fact finding process and the materials so have been placed or to be placed during the course of inquiry cannot be used as evidence against the petitioners, for the said materials could be collected and used against the petitioners during the course of investigation pursuant to a First Information Report. (Para 10).

Altaf Hossain Mollah Vs. Government,
2 CLR (2014)-HCD-68.

Anti-Coorruption Act (XXVI of 1957)

Section 3(2)-Before proceeding further with the Memos, the Commission, upon enquiry should decide as to whether the approval letter issued by the Bureau is genuine or not and should take action the person/persons responsible for sending/receiving the letter with the official seal of the Bureau (now, the Commission), if it is found not a genuine letter issued by the Bureau.

Nurul Islam (Md) vs Anti-Corruption
Commission represented by its Chairman (Spl Original);
22 BLC (2017)-HCD-659

Anti-Corruption Act (XXVI of 1957)

Section 4(1)-Bureau of Anti-Corruption is not required to disclose specific material or investigation report to the petitioner in the notice requiring submission of statement of income and assets.

Abdus Salam (Md) Vs. Anti-Corruption
Commission represented by its Chairman (Spl original);
22 BLC (2017)-HCD-128.

Section. 4—The petitioner being not an accused in any proceeding the notice under section 4(1) of the Act will not be presumed to compel her to give evidence against herself to offend her fundamental rights as guaranted under Article 35(4) of the Constitution. Because Article 35(4) of the Constitution will be attracted if the proceeding is started with the accusation and the person who seeks is protection is already an accused person and he is being compelled to make the statement. Therefore, there is no scope for violation of the fundamental rights of the petitioner as guaranted under Article 35(4) of the constitution inasmuch as issuance of the notice under section 4(1) of the Act will be presumed to be fact collection process only...(7)

Md. Hemayet Uddin Talukdar Vs. Bangladesh,
3 TLR (2013)-Page-604.

Section 4(1)-Held; by person failing to furnish the statement when called upon under section 4(1) of the Act commits the offence punishable under the law. The validity or otherwise of the notice cannot be questioned at this stage in such a case. There is other forum, if any, to ventilate such grievance. In view of the provision of law prescribing the punishment for failing to submit the statement and in view of the fact that the accused petitioner failed to furnish such statement inspite of being called upon he cannot be absolved of the consequence that resulted in his conviction after due trial.

Md. Habibur Rahmun Vs.The State,
22 BLT (2014)-AD-463.

Sections. 4(1)(2) and 6—Bureau of Anti-Corruption cannot form any satisfaction for issuance of notice under section 4(1) of the Act and prosecute any accused under section 4(2) of the Act unless there is an initial satisfaction of the Government for issuance of notice under section 4(1) of the Act and previous sanction required under section 6 the Act for prosecution under section 4(2) of the Act.

Abdullah-al-Noman Vs. State,
65 DLR (2013)-HCD-156.

Anti Corruption Act, 1957 (Act No. XXVI of 1957)
Section 5(1) read with
Anti Corruption (Tribunal) Ordinance, 1960 ; Section 3(2) read with
Prevention of Corruption Act, 1947 (Act II of 1947) ; Section 5(1)(e) read with
General Clause Act, 1897; Section 6

Misconduct by impugned judgment and order dated 03.02.1992 passed by the Divisional Special Judge convicting and sentencing the appellant

It is pertinent to mention here that at the time of occurrence, section 5(2) of the Act II 1947 did not provide any sentence of confiscation. It was amended by Act VIII of 1992 on 29.01.1992 with prospective effect and the sentence of confiscation was added therewith before four days of

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Anti-Corruption Commission Act, 2004 (V of 2004)

ACC Act, 2004: "Inquiry" is a fact finding process and does not prejudice the person called for:

Under the Anti-corruption Commission, Ain, 2004 "inquiry" is a fact finding process being adopted by the commission either on its own motions or on receipt of complaint, in order to find out the correctness of the allegations so brought against. Here, the person who has been called upon to interrogate as a witness, is a witness not in connection with criminal proceedings but a witness who is assisting the Commission to find out whether there is any basis to the allegations. Moreover, the statements so are given during the course of inquiry cannot be used as evidence in connection with criminal case. Hence, the incumbent concern has no reason to be prejudiced at all (Para 32)

AKM Khurshid Hossain and others vs. ACC,
2 CLR (2014)-HCD-406.

Anti-Corruption Commission Act, 2004

ACC a necessary party in any Judgment or order passed by the Special Judge:

The Durnity Daman Commission constituted by the Durnity Daman Commission Ain, 2004 is not only a necessary party but also entitled to contest an appeal to be preferred by an accused-person against any judgment, order or conviction passed by the Special Judge arising out a proceedings initiated by the Commission....(para-2).

ACC Vs. Monjur Morshed Khan and Another,
1 Counsel (2013)-AD-33.

Truth and Accountability Commission (TAC).

There is no qualm on the theme that the effects and consequences of a legislation or an Ordinance remain in force until it is subsequently declared invalid. It is a well-settled principle of law that a right or a privilege once vested in a man cannot be taken back. Therefore, the right to remain shielded from prosecution again for the same acts, was a valid right at the time it accrued to the petitioner by virtue of the presumption of validity. So, even though the Ordinance ceased to exist when it was declared ultra vires by a judgment of the High Court Division, yet the rights that stemmed from it during the period of its validity, cannot be erased.

Emon Shahriar Vs. The State (Spl Original),
2 ALR (2013)-HCD-201.

ACC Act 2 ACC Rules, 2007: Rule 16: Trap Case: Procedure to be followed: Prima facie evidence of the offence and procedure of collection of evidence are different things:

It is the functions of the Court to examine the reliability of evidence collected by way of trap after recording the evidence. Whether the trapping party had followed the relevant Rules at the time laying trap or not or in other words, pre arranged raid/trap carries any evidentiary value or not for non compliance of procedural formalities before laying traps should be considered by the Courts after recording evidence along with other evidence. The Court may or may not accept the evidence of decoy witness considering the facts, circumstances, the procedure to be followed for laying traps and that the officials laying traps were designated or not. There may be other reliable evidence in the hand of prosecution against the respondents to connect with the offence ....(Para 11)

ACC Vs. Md. Razaul Kabir and others
4 CLR (2016)-AD-61.

Anti-Corruption Commission Act (V of 2004)

Section 2(Uma)—Though by engaging in coaching businesses the teachers have disobeyed the direction of law, but it cannot be said that they have committed any 'corruption' as we understand the term in its general and common parlance. Though thinly and technically Dudak had jurisdiction to enquire into the matters as published in the newspaper as regards involvement of the Government teachers in coaching business, they should not have conducted such enquiry at all. Such enquires should have been done by the education directorate of the Government or the concerned ministry itself. However, for the same technical reason, we cannot say that Dudak acted without jurisdiction.

Dr F arhana Khanum vs Bangladesh (Spl Original),
72 DLR (2020)-HCD-269

Section 2: Definition of 'দুর্নীতি"and "দুর্নীতিমুলক কার্য"

However, the word corruption "দুর্নীতি" has been defined in section, 2(Uma) of the Ain. 2004 but the word "দুর্নীতিমুলক কার্য" has not been, so defined; however, in view of the submissions of the learned Advocate for the petitioners if we give literal interpretation to the word "means to be confined within the schedule offence so far the inquiry is concerned the whole purpose of promulgating the Anti-corruption commission Ain, 2004 will be frustrated (Para 23).

AKM Khurshid Vs. Bangladesh
2 CLR (2014)-HCD-406.

Anti-Corruption Commission Act, 2004

Neither in the Code of Criminal Procedure nor in the Durnity Daman Commission Ain nor in the judgment delivered by this Division in the case of Durnity Daman Commission Vs. Dr.