
(2019) 01 JH CK 0008

In the Jharkhand High Court

Case No : Criminal Revision No. 1710 Of 2017

Alok Kumar Bandhopadhyay

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 239

Citation : (2019) 01 JH CK 0008

Hon'ble Judges : B.B. Mangalmurti, J

Bench : Single Bench

Advocate : Chandra Shekhar Singh, Rajeev Nandan Prasad

Final Decision : Dismissed

Judgement

This interlocutory application has been filed for condonation of delay of 78 days in filing the case.

The reasons stated in the application explain the delay in filing the case.

Accordingly, the delay of 78 days in filing the case is condoned.

I.A. No. 5741 of 2018 stands disposed of.

Cr. Rev. No.1710 of 2017

1. Heard learned counsel for the parties.

2. The instant revision has been filed against the order dated 14.06.2017 passed by the Special Judge, C.B.I., Ranchi in connection with R.C.10(A)/2011-R by which petition for discharge has been rejected.

3. The short facts of the case is that C.B.I. lodged an F.I.R. after getting information from reliable source that petitioner-Alok Kumar Bandhopadhyay posted as Zonal Officer, Zone-V, Soil Conservation Department, DVC, Maithon, Dhanbad conspired with other accused persons dishonestly and fraudulently certified the false hand-receipts, false measurement books and false documents

of returning of land to the farmers after afforestation, all accused persons showing place of execution of work in five villages and thereby they abused their official position and dishonestly certified the execution of 50% of each items of purported work in measurement books. Due to his certification of false documents, the payments from the accounts office of DVC was released. The petitioner has committed criminal misconduct while certifying the false measurement books, false hand-receipts and false documents of returning of land to the farmers after afforestation, as no work had been executed by accused Dipankar Halder in the land of farmers of villages Markora, Tiltoria, Josnadih and Churainala except few plantation at one patch of village Marma. Thus, putting the DVC to wrongful loss of Rs.33,27,912/- and corresponding to wrongful gain to themselves.

4. Learned counsel for the petitioner submitted that on the request of C.B.I. an expert committee was constituted and on the basis of the report of the Committee C.B.I. submitted Final Form in R.C.9(A)/2011-R(A). He further submitted that the expert committee was formed to examine the issue pertaining to the plantation work undertaken during the year 2009-2010. The C.B.I. ignoring the report of the expert committee submitted the charge-sheet in the present case in which the petitioner is one of the accused. He also submitted that there was some deviation in the plantation work done in the adjacent villages within the same watershed but those facts were not taken care of and even the sanctioning authority without considering this aspect of the matter granted sanction for prosecution. He further submitted that prosecution sanction has been granted without considering the material available in favour of the petitioner. Lastly he submitted that the court below also did not consider these matters and rejected his prayer for discharge which was filed under Section 239 of the Cr.P.C.

5. Learned counsel appearing on behalf of the C.B.I. submitted that C.B.I. is not bound by the report of any in-house Committee and each and every case has its own facts and circumstances and two cases cannot be compared even they are on the identical footing. He further submitted that the court cannot direct the Investigating Agency to investigate the case in a particular manner. The Investigating Officer has collected sufficient materials against this petitioner, who in connivance with other co-accused persons has caused loss to the Corporation and thereby procured gain out of it. He also submitted that the trial is going on and the witnesses are being examined on behalf of the prosecution. Lastly he submitted that this Court by order dated 07.12.2018 in W.P.(Cr.) No.640 of 2015 with W.P.(Cr.) No.433 of 2015 has dismissed the prayer of co-accused Joydeep Biswas.

6. Having heard learned counsel for the parties, as well as looking to the papers attached with this application, it appears that the petitioner while holding the post of Zonal Officer, Zone-V, Soil Conservation Department, DVC, Maithon, Dhanbad has hatched a conspiracy with other co-accused persons and certified

hand-receipts, measurement books and documents of returning of land to the farmers after afforestation and all these documents were prepared in connivance with other co-accused persons showing place of execution of work in five villages and by abusing his official position caused wrongful loss of Rs.33,27,912 to the Corporation and got wrongful gain to himself.

7. Since the trial in the court below has progressed substantially, therefore, it would be open for the petitioner to raise the points which are available to him as per provisions of law at appropriate stage. The satisfaction of the authority while granting prosecution is the prima facie satisfaction and on that very basis the prosecution sanction is normally granted. Since this matter is before the trial court, therefore, the trial court below will decide this matter in its legal perspective.

8. In such circumstances finding no irregularity or illegality in the impugned order, instant criminal revision is dismissed.