

(1988) 01 SC CK 0057

In the Supreme Court Of India

Case No : Criminal Appeal No's. 251, 252 and 368 of 1986

Amrit Lal Chum

APPELLANT

Vs

Devoprasad Dutta Roy
Amrit Lal Chum Vs Debi Ranjan
Jha

RESPONDENT

Date of Decision : 20-01-1988

Acts Referred:

Companies Act, 1956 — Section 630, 630(1)

Citation : AIR 1988 SC 733 : (1988) 2 CALLT 6 : (1988) 1 CompLJ 167 : (1988) 1 JT 218 : (1988) 1 LLJ 421 : (1988) 1 SCALE 213 : (1988) 2 SCC 269 : (1988) 2 SCR 783

Hon'ble Judges : L. M. Sharma, J;E. S. Venkataramiah, J;A. N. Sen, J

Bench : Full Bench

Final Decision : allowed

Judgement

1. After hearing Shri S.K. Kapoor, learned Counsel appearing for respondent No. 1 in Criminal Appeals Nos. 251-252 of 1986 at quite some length, we are not persuaded to take a view different from the one expressed by this Court in the recent judgment in Baldev Krishna Sahi Vs. Shipping Corporation of India Limited and Another, overruling the judgment of the Calcutta High Court in Amrit Lal Chum Vs. Devoprasad Dutta Roy, as to the scope and effect of Sub-section (1) of Section 630 of the Companies Act, 1956. The Court in BALDEV KRISHNA SAHI'S case has placed a beneficial construction on the provisions contained in Sub-section (1) of Section 630 of the Act and according to it the term 'officer or employee' in Sub-section (1) of Section 630 must be interpreted to mean not only the present officers and employees of a company but also to include the past officers and employees of the Company. It has also taken the view that the words 'any such property' in Clause (b) thereof qualify the words 'any property of a company' appearing in Clause (a). As observed in BALDEV KRISHNA SAHI'S CASE, Section 630 of the Act plainly makes it an offence if an officer or employee of a company who was permitted to use the property of the company during his employment, wrongfully retains or occupies the same after the termination of his

employment. It is the wrongful withholding of such property, meaning the property of the company after termination the employment, which is an offence u/s 630(1)(b) of the Act. The construction placed by this Court in BALDEV KRISHNA SAHI'S case is the only construction possible. There is therefore no warrant to give a restrictive meaning to the term 'officer or employee' appearing in Sub-section (1) of Section 630 of the Act as meaning only the existing officers and employees and not those whose employment have been terminated. The Court in BALDEV KRISHNA SAHI'S case has expressly overruled the judgment of the Calcutta High Court in AMRIT LAL CHUM v. DEVI RANJAN JHA, supra, against which these appeal have been filed and upheld that consistent view to the contrary taken by the High Court of Bombay in a series of cases. See : Harkishin Lakhimal Gidwani Vs. Achyut Kashinath Wagh and another, and Govind T. Jagtiani Vs. Sirajuddin S. Kazi another, .

2. Accordingly, these appeals must succeed and are allowed with costs. The judgment of the High Court allowing the applications u/s 482 of the code of Criminal Procedure, 1973 are set aside.

3. Shri S.K. Kapoor, learned Counsel appearing for respondent No. 1 in Criminal Appeals Nos. 251-252 of 1986 and Shri Parijat Sinha, learned Counsel for respondent No. 1 in Criminal Appeal No. 368 of 1986 pray for time to vacate the premises in their occupation. We grant the respondents time till June 30, 1988 to vacate the premises subject to their furnishing the usual undertaking in this Court within four weeks from today. If there is a failure on the part of the respondents to comply with these conditions, namely, failure to file the said undertaking and/or to vacate the premises within the time allowed, the cases against them i.e. Complaint Case No. 1053/83 in the Court of IIIrd Additional Judicial Magistrate, Alipore, 24 Paraganas and Complaint Case No. 2788/84 in the Court of Special Division Judicial Magistrate, Alipore, 24 Paragana shall continue. In the event of respondents' failure to file the undertaking and/or vacate the premises within the time specified, the learned Magistrates shall proceed with the trial of these cases and dispose them of as expeditiously as possible and in any event, not later than October 31, 1988.

4. The intervention application filed by Tata Iron and Steel Company Limited is not pressed.