
(2003) 03 JH CK 0063

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3831 of 2001

Bahadur Bedia

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 26-03-2003

Acts Referred:

Forest (Bihar Amendment) Act, 1990 — Section 52
Forest Act, 1927 — Section 33, 41, 42

Citation : (2004) CriLJ 1356 : (2004) AIR Jhar HCR 652 : (2003) 12 AllIndCas 649 : (2003) 4 JCR 108

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : M.M. Banerjee and Ujjal Choudhury, for the Appellant; S. Akhtar, S.C. II and A.K. Mehta, JC to S.C. II, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The vehicle of petitioner, a Trekker, bearing Registration No. BR 14 P 1477 was intercepted by respondents on 28th July, 1999 at about 7.30 p.m. by the Patrolling Party of Forest Checkpost, Ramgarh. Upon search, 157 pieces of Semal Planks were found loaded in the vehicle in question. Three persons aboard, namely, Suresh Bedia, son of the petitioner, driver and one Minaz Ansari were arrested for offence under Sections 33, 41 and 42 of the Indian Forest Act. A Confiscation Case No. 7 of 1999 was registered on the basis of the offence report drawn by one Surendra Ram, Forest Guard.

2. By an order dated 31st January, 2000 passed in Confiscation Case No. 7 of 1999, the Authorised Officer-cum-D.F.O., Hazaribagh confiscated the vehicle, in question, u/s 52 of the Indian Forest (Bihar Amendment) Act, 1989, The petitioner moved in Appeal Case No. 1 of 2001, but it was rejected vide order dated 15th December, 2000 by the appellate authority-cum-Deputy Commissioner, Hazaribagh. The Revision Case No. 1 of 2001 was also rejected on 21st May, 2001 by the revisional authority, the Secretary, Forest and

Environment Department, Jharkhand.

3. In the present case, the petitioner has challenged the original order dated 31st January, 2000 (Annexure 3), the appellate order dated 21st May, 2001 (Annexure 4), and the revisional order dated 21 May, 2001 (Annexure 5), on the ground that the authority failed to prove that the owner of the vehicle, the petitioner had knowledge about the offence being committed in his vehicle.

4. The counsel relied on the Supreme Court's decision in Assistant Forest Conservator and Others Vs. Sharad Ramchandra Kale, , wherein the Supreme Court upheld the order passed by the Bombay High Court setting aside the order of confiscation on the ground that the authorities had failed to establish that the owner of the truck had any knowledge that his truck was likely to be used for carrying forest produce in contravention of the provisions of the Forest Act.

5. The present case relates to an offence committed in the State of Bihar (now State of Jharkhand). The confiscation of the vehicle, in question, has been made under Sub-section (5) of Section 52 of the Indian Forest (Bihar Amendment) Act, 1989. Relevant provisions of which read as follows :--

"(5) no order of confiscation under Sub-section (3) of any tools, arms, boats, vehicles, ropes, chains or any other article (other than the forest produce seized) shall be made if any person referred to in Clause (b) of Sub-section (4) proves to the satisfaction of authorized officer that any such tools, arms, boats, vehicles, ropes, chains or other articles were used without his knowledge or connivance or as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against use of the objects aforesaid for commission of forest offence."

As per the aforesaid provisions, which are applicable in the State of Bihar (now Jharkhand), the onus lies on the owner of the vehicle to prove that he had no knowledge that his vehicle would be used to carry forest produce/wood. It is not for the State authority to prove it.

6. In the present case, the authorities brought on record that the Trekker (vehicle in question) was carrying 257 pieces of Semal Planks without any valid papers and permits in violation of transit rules. A forest offence was committed, is not in dispute. Whether the petitioner had full knowledge, has been established on the facts that the petitioner's son was also boarded on the Trekker and was caught by the patrolling party. The son of the petitioner did not say that he did offence of his own, and his father had no knowledge.

7. In the aforesaid background, if the Trekker which was meant for plying on Ranchi, Ramgarh route for carrying passengers if it is being used for illegal transportation of Semal Planks, without any valid transit permit, and on the basis of the statement of the Driver, it is held that the owner, petitioner had knowledge, there appears to be no reason to interfere with the order passed by the original authority, as affirmed by the appellate and revisional authorities.

8. There being no merit, the writ petition is dismissed.