
(2022) 11 JH CK 0004

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1744 Of 2018

Bhagirath Prasad Singh @ B.P. Singh

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 02-11-2022

Acts Referred:

Indian Forest Act, 1927 — Section 33

Citation : (2022) 11 JH CK 0004

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Anoop Kumar Mehta, Jitendra Pandey

Final Decision : Allowed/Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Anoop Kumar Mehta, learned counsel for the petitioner and Mr. Jitendra Pandey, learned counsel for the State.

2. This petition has been filed for quashing the order dated 21.08.2017 passed by the learned Sub Divisional Judicial Magistrate, Chatra in U.C. Case No.259/2014, whereby, cognizance under Section 33 of the Indian Forest Act has been taken against the petitioner, pending in the court of the learned Sub Divisional Judicial Magistrate, Chatra.

3. The prosecution case arises out of an Offence Report dated 25.12.2014 of one Bijendra Choudhary, Tandwa Forest Range alleging therein that while he was on patrolling duty at 07:15 A.M. on 25.12.2014 along with his associates, it was noticed that the accused persons along with others had encroached into the forest land and were carrying out mining operation. It has also been alleged that on seeing the patrolling party, all the accused persons were able to run away. The informant and his team were able to seize the articles left behind. The Offence Report so submitted was thereafter forwarded to the O.P. No.2, the Divisional Forest Officer, South Forest Division, Chatra by Sri Nageshwar Mahto,

Forester, stating that he along with the Forest Guard inspected the spot and found that the place of occurrence is at Plot No.176 of Mangardaha Forest. The Forester has also stated that he called the accused persons at the site but they failed to reach the spot. The Forester has assessed the loss to the extent of Rs.36,000/- being the cost of 5 tonnes of coal @ Rs.2400/- totalling Rs.12,000/- apart from compensation and penalty (twice the amount totally Rs.24,000/-). Thus, the loss alleged to have been suffered is Rs.36,000/-. Upon receipt of the Offence Report, the O.P. No.2 examined the matter and submitted prosecution report bearing EPC No.23/2017-18 in connection with the Offence Report No.9/P dated 30.01.2016.

4. Mr. Anoop Kumar Mehta, learned counsel for the petitioner submits that the land in question is being utilized for coal mining purposes by Piparwar Open Cast Project of Central Coalfields Limited earlier in the district of Hazaribagh, for which, the Ministry of Environment & Forest, Government of India vide its letter dated 03.01.1995 has granted permission for diversion of 43.30 Hectares of forest land for coal mining. He further submits that before the expiry of the validity period of the approval under the Forest (Conservation) Act, 1980, an application was submitted by M/s. CCL for extension of the approval. However, as the office of the opposite party no.2 was causing disturbance in carrying out mining operations, M/s. CCL filed an application being I.A. No.2077-78 in I.A. No.1441 in pending writ application being W.P.(C) No.202/1995 in the matter of T.N. Godavarman Thirumulpad v. Union of India & others with a prayer that during the pendency of the writ application, the respondents be restrained from taking any coercive action. The said I.A. was allowed by the Hon'ble Supreme Court and no coercive steps were directed to be taken. He also submits that Net Present Value (NPV) has already been deposited with the State pursuant to the order passed by the Hon'ble Supreme Court. He relied upon the judgment passed by the Hon'ble Supreme Court in *Aneeta Hada v. Godfather Travels & Tours Pvt. Ltd.*; [(2012) 5 SCC 661] and submits that in absence of the company, the petitioner cannot be prosecuted as at that time he was the Project Officer. On these grounds, he submits that entire criminal proceeding is malicious proceeding and the same may kindly be quashed.

5. On the other hand, Mr. Jitendra Pandey, learned counsel for the State by way of referring counter affidavit submits that the lease was expired and that is why the complaint case has been filed against the petitioner, who was the officer of M/s. CCL. On this ground, he submits that this case is fit to be rejected.

6. In view of the above submissions of the learned counsel appearing for the parties, the Court has gone through the materials on the record and finds that for non-extension of the lease by M/s. CCL, the case has been filed and subsequently the matter has been travelled up to the Hon'ble Supreme Court and pursuant to the order of the Hon'ble Supreme Court, Net Present Value (NPV) has been deposited by M/s. CCL to the State. Moreover, the petitioner was the Project Officer and the company is not made an accused and vicarious liability

cannot be fastened upon the petitioner, who is the officer and in absence of company in view of the judgment passed by the Hon'ble Supreme Court in Maharashtra State Electricity Distribution Co. Ltd & another v. Datar Switchgear Ltd. & others; [(2010) 10 SCC 479] and S.K. Alagh v. State of U.P. & others; [(2008) 5 SCC 662]. In the case in hand, there is no averment made in the offence report that there is direct involvement of this petitioner in the commission of the forest offence. Merely because the petitioner was the Project Officer, he has been made accused in absence of any averment with respect to direct complicity of this petitioner in the forest offence, this petition deserves to be allowed.

7. In view of the law laid down as well as the judgments passed in Cr.M.P. No.918 of 2003 and Cr.M.P. No.07/2002, contained in Annexures-3 and 4 of the petition, the entire criminal proceeding including the order dated 21.08.2017 passed by the learned Sub Divisional Judicial Magistrate, Chatra in U.C. Case No.259/2014, pending in the court of the learned Sub Divisional Judicial Magistrate, Chatra is, hereby, quashed.

8. Accordingly, this petition stands allowed and disposed of.

9. Interim order dated 27.04.2022 stands vacated.