
(2021) 12 JH CK 0014

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3226 Of 2019

Binesh Sharma

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 13-12-2021

Acts Referred:

Industrial Disputes Act, 1947 — Section 17A, 29, 32, 39(a)

Citation : (2021) 12 JH CK 0014

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amit Kumar Das, Snehlika Bhagat

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Amit Kumar Das, learned counsel for the petitioner and Ms. Snehlika Bhagat, learned A.P.P. for the opposite party-State.

2. Mr. Das, learned counsel for the petitioner submits that in terms of the order dated 14.01.2020, he has not filed the supplementary affidavit as he has not been able to procure the order of the Hon'ble Supreme Court. He further submits that after dismissal of the S.L.P., the Division Bench order whereby award was modified, has been complied with.

3. In view of such submission, final hearing of this petition has been concluded on behalf of the parties.

4. This petition has been filed for quashing the entire criminal proceeding in connection with G. Case No.48 of 2013 including the order dated 16.05.2013 passed by the learned Additional Chief Judicial Magistrate, Ramgarh, whereby, cognizance for the offence under Section 29 of the Industrial Disputes Act, 1947 has been taken against the petitioner. The further prayer is made to quash the order dated 28.05.2019 whereby the bail granted to the petitioner has been

cancelled and non-bailable warrant has been issued against the petitioner.

5. The case was filed by the Labour Enforcement Officer (Central), Hazaribag stating therein that he is delegated with power under Section 39(a) of the Act and duly empowered to file the present complaint under Section 29 of the Industrial Disputes Act, 1947. It was also stated that the accused persons have failed to implement the award of the Central Government Industrial Tribunal No.1, Dhanbad passed in Reference Case No.42 of 2010 on 30.12.2011 with respect to Sarju Saw of Pindra Colliery who was directed to be reinstated with 75% back wages. Since the workman had superannuated, the Management was directed to pay him 75% of the back wages from the date of dismissal of his service till the date of his superannuation as per Section 17A of the Industrial Disputes Act, 1947. It was further stated that the accused persons as well as every Manager, Secretary, persons concerned with the affairs of the said Company are to be held responsible under Section 32 of the Industrial Disputes Act, 1947 for non-implementation of the Award. It was further stated that twice notices were issued but in spite thereof, the Award was not complied with and as such the accused persons are liable to be summoned for commission of offence under Section 29 of the Industrial Disputes Act, 1947.

6. Mr. Das, learned counsel for the petitioner submits that the award was challenged before this Court in W.P.(L) No.2761 of 2012, which was dismissed vide order dated 08.10.2012. He further submits that the said order of the writ Court was challenged before the Division Bench of this Court in L.P.A. No.238 of 2013 whereby award was modified to some extent vide order dated 25.02.2014. He also submits that the said order was challenged before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 12159 of 2014, which was disposed of vide order dated 08.05.2014. He further submits that after disposal of the said Special Leave to Appeal (Civil), modified award passed in terms of the L.P.A. order has been implemented by the petitioner and the amount in question has been paid to the workman. He also submits that the petitioner was the Project Officer of Pindra Colliery, Central Coalfields Limited at the time of passing the award and he has been transferred to Dakra Project. He further submits that the petitioner has appeared before the concerned court and bail was granted vide order dated 27.01.2017. The petitioner was transferred subsequently to another place and therefore on his behalf the steps were taken by the lawyer. He also submits that on some of the dates, no steps were taken on behalf of the petitioner, the bail granted to the petitioner was cancelled and non-bailable warrant was issued vide order dated 28.05.2019. He further submits that the petitioner is an officer and he is a law abiding citizen and due to non-communication, no steps were taken on his behalf. He also submits that in paragraph 11 of the petition, it has been disclosed that 50% of the back wages was calculated at Rs.11,20,069.39/- and the same was paid vide Cheque No.016228 on 03.06.2014.

7. Ms. Bhagat, learned A.P.P. for the State submits that the petitioner has not

appeared before the concerned court and that is why the bail has been cancelled.

8. In view of the above facts and considering that the case is arising out of Section 29 of the Industrial Disputes Act, 1947, which stipulates penalty for breach of settlement of award. The award in question has already been complied with, as submitted by the learned counsel for the petitioner, to allow the proceeding in the concerned court will amount to harass the petitioner.

9. In view of the above facts and considering that the award has already been complied with, there is no reason to continue the proceeding. Accordingly, the entire criminal proceeding in connection with G. Case No.48 of 2013 including the order dated 16.05.2013 passed by the learned Additional Chief Judicial Magistrate, Ramgarh as well as the order dated 28.05.2019 passed in G. Case No. 48 of 2013 whereby non-bailable warrant has been issued against the petitioner, pending in the court of the learned Judicial Magistrate, 1st Class, Ramgarh are hereby quashed.

10. Accordingly, this criminal miscellaneous petition stands allowed and disposed of.