

(2003) 05 JH CK 0036
In the Jharkhand High Court
Case No : Criminal M.P. No. 345 of 2003

B.P. Singh @ Brij Pal Singh and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 07-05-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 406, 407, 409, 420
Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Citation : (2003) 3 JCR 77

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : M.M. Banerjee and Prabir Chatterjee, for the Appellant; Rajesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard. It has been submitted by the learned counsel for the petitioners that the Special Judge, C.B.I. could not have taken cognizance of the offences under the provisions of the Indian Penal Code on the basis of the charge-sheet submitted by the C.B.I. It was only the Special Judicial Magistrate, who was. empowered to take cognizance under the provisions of the Penal Code.

2. It is not a simple case in which the charge-sheet was submitted only under Sections 120B/420/406/407 and 409 of the Indian Penal Code but in fact after investigation, the C.B.I. has submitted charge-sheet under the aforesaid sections of the Indian Penal Code but also u/s 13(2) read with Section 13(1) (c) and (d) of the Prevention of Corruption Act against several accused persons including the officials who are public servants of different Government Departments.

3. It is only because the sanction for prosecution was awaited against the petitioners who are the officials of BPCL and hence the C.B.I, submitted charge-sheet only under Sections 120B/420/ 406/407 and 409 of the Indian Penal Code awaiting the sanction order for prosecution u/s 13(2) read with Section 13(1) (c)

and (d) of the Prevention of Corruption Act.

4. From the order taking cognizance it is apparent that the Special Judge has taken cognizance u/s 13(2) read with Section 13(1) (c) and (d) of the Prevention of Corruption Act against the accused Public Servant against whom the sanction order had already been received.

5. Nothing has been pointed out to me nor any provision has been brought to my notice to substantiate that the Special Judge was debarred from taking cognizance against the petitioners only under the provisions of the Penal Code.

6. The submission of the petitioners is devoid of any merit.

7. No other point has been urged by the learned counsel for the petitioners in support of the application for quashing.

8. Accordingly this application is dismissed .