
(2013) 05 CHH CK 0001
In the Chhattisgarh High Court
Case No : M. Cr. C. No. 673 of 2001

Deena Ram

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 10-05-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 187(1), 197, 197(1), 482
Forest Act, 1927 — Section 41, 69

Citation : (2013) 4 CGLJ 153 : (2013) CriLJ 3757 : (2013) 5 MPHT 86

Hon'ble Judges : R.S. Sharma, J

Bench : Division Bench

Advocate : Rajeev Shrivastava and Malay Shrivastava, for the Appellant; Anand Verma, Panel Lawyer, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Sharma, J.—Invoking the extra-ordinary jurisdiction of this Court u/s 482 of Cr.P.C. the petitioner has filed this petition for quashing the order dated 6-2-2001 passed by 6th Additional Sessions Judge, Bilaspur in Criminal Revision No. 454/2000 and order dated 27-11-2000 passed by Judicial Magistrate First Class, Bilaspur in Criminal Case No. 2/2000. The facts of the case, in brief, are as under:--

On 25-8-1996, the petitioner was posted as Assistant Station Master at Railway Station Teganmada. On 26-8-1996, a person brought forest timber and asked the petitioner for booking the said timber for outstation. The petitioner demanded the permission. The said person put the timber inside the office of the petitioner and left the office assuring that he will come back with the necessary permission but the said person never returned. The petitioner reported the matter to the Station Master on the same day. On 26-8-1996 timber was seized by the forest officers and offence under Sections 41 and 69 of the Indian Forest Act was registered against the petitioner and the charge sheet was filed before the Judicial Magistrate First Class, Bilaspur. The petitioner filed an application u/s

197 Cr.P.C. stating that the petitioner is a public servant and sanction u/s 197 is necessary but his application was rejected by the Judicial Magistrate First Class, Bilaspur. The petitioner filed Criminal Revision before 6th Additional Sessions Judge, Bilaspur. Learned 6th Additional Sessions Judge, Bilaspur dismissed the revision petition. Hence, this petition.

2. Shri Rajeev Shrivastava and Shri Malay Shrivastava, learned counsel for the petitioner argued that petitioner is a Central Govt. employee and he was appointed by the Railway Recruiting Board and Divisional Railway Manager and he had discharged his duty in course of his official capacity as public servant. Therefore, sanction u/s 197 of Cr.P.C., necessary. Therefore complaint was liable to be quashed for want of sanction for prosecution.

3. Shri Anand Verma, learned Panel Lawyer appearing for the State/respondent has contended that the alleged act/action of the petitioner has no nexus with his official duty. Sanction is, therefore, not required to prosecute him.

4. I have heard learned counsel for both the parties and have perused the impugned order of Courts below and also record of Criminal Case No. 2/2000 (New No. 608/2010).

5. Learned Judicial Magistrate First Class, Bilaspur held thus:

(Vernacular matter omitted...Ed.)

6. In State of H.P. Vs. M.P. Gupta, ; the Hon^{ble} Supreme Court observed thus:

11. ...17. The words "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty" employed in Section 187(1) of the Code, are capable of a narrow as well as a wide interpretation. If these words are construed too narrowly, the section will be rendered altogether sterile, for "it is no part of an official duty to commit an offence, and never can be". In the wider sense, these words will take under their umbrella every act constituting an offence, committed in the course of the same transaction in which the official duty is performed or purports to be performed. The right approach to the import of these words lies between these two extremes. While on the one hand, it is not every offence committed by a public servant while engaged in the performance of his official duty, which is entitled to the protection of Section 197(1), an act constituting an offence, directly and reasonably connected with his official duty will require sanction for prosecution under the said provision.

Use of the expression "official duty" implies that the act or omission must have been done by the public servant in the course of his service and that it should have been in discharge of his duty. The section does not extend its protective cover to every act or omission done by a public servant in service but restricts its scope of operation to only those acts or omission which are done by a public servant in discharge of official duty.

7. In Raghunath Anant Govilkar Vs. State of Maharashtra and Others, , the Hon"ble Supreme Court has held:

The protection given u/s 197 is to protect responsible public servant against the institution of possible vexatious criminal proceedings for offences alleged to have been committed by them while they are acting or purporting to act as public servants. The policy of the legislature is to afford adequate protection to public servant to ensure that they are not prosecuted for anything done by them in the discharge of their official duties without reasonable cause, and if sanction is granted, to confer on the Government, if it chooses to exercise it, complete control of the prosecution. The protection has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act.

8. In the instant case, tendu wood (heart-wood) Nos. of 55 was recovered from office of the petitioner and the petitioner had no transport permit or other documents. A notice was issued to the petitioner but he refused to take notice. According to the petitioner one person brought wood (timber) and asked for booking. The petitioner asked the person to produce the permit but he had left the office and the wood was already lying inside the office of the petitioner.

9. The contention raised by the petitioner is not acceptable if a person who brought the timber had no possessed transport permit or other documents then the petitioner refused to take the timber inside the office. The wood/timber was seized from inside the office of the petitioner. It was no part of duty of petitioner while discharging his official duty to keep timber without documents in his office. Therefore, sanction u/s 197 Cr.P.C. not required.

10. There is no illegality in the orders passed by Courts below. Thus, the petition, being devoid of merit, deserves to be and is hereby dismissed.