

(2020) 06 JH CK 0006
In the Jharkhand High Court
Case No : Criminal Revision No. 104 Of 2020

Firoj Ansari @ Md. Firoj

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 04-06-2020

Acts Referred:

Prevention Of Corruption Act, 1988 — Section 7, 13(1)(d), 13(2)

Citation : (2020) 06 JH CK 0006

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Saibal Kumar Laik, T.N. Verma

Final Decision : Dismissed

Judgement

1. Heard the parties through video conferencing.
2. This revision petition is directed against the order dated 27.11.2019 passed by the learned District Judge-II-cum-Special Judge (A.C.B.), Dhanbad in connection with Special Case No.21 of 2017, M.C.A. No.1631 of 2019 (C.N.R. No.JHDH01-007354-2018) whereby and where under, the learned court below has rejected the prayer of the petitioner to be discharged from this case.
3. The brief facts of the case is that a complaint was lodged by the complainant with the Anti-Corruption Bureau alleging therein that the complainant has been awarded a work to construct a drain and the petitioner who was the Panchayat Sewak was demanding Rs.12,000/- at the rate of 5 percent of the estimated cost of the work as commission. On the basis of complaint, verification was made by the Inspector of Anti-Corruption Bureau and the allegation was found to be true and a trap was made and the petitioner was caught red handed while receiving the bribe amount. It is further alleged that his hand was washed and the color of the solution turned pink and observing all the formalities, charge sheet has been submitted against the petitioner for having committed offence punishable under Sections 7 and 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act,

1988.

4. Mr. Saibal Kumar Laik, the learned counsel for the petitioner submits that the impugned judgment is illegal and has been passed by the trial court without application of mind. It is next submitted that the learned trial court has failed to consider that the estimated cost of the scheme is Rs.2,82,800/- though it has wrongly been mentioned in the FIR to be Rs.2,42,000/- . It is the submitted that this indicates that the allegation made against the petitioner are out and out false. It is further submitted by the learned counsel for the petitioner that the learned court below has failed to consider the defence version, as it could not properly appreciated the documents filed by the defence and it failed to consider that the petitioner has falsely been implicated in this case. Hence, it is submitted that the impugned order being an illegal one, the same be set aside and the petitioner be discharged.

5. Mr. T.N. Verma, learned counsel appearing for the Anti-Corruption Bureau on the other hand defended the impugned order and submitted that it is a case of trap and the essential ingredient like demand, acceptance and recovery has been made and there is ample evidence in the record in respect of each of such ingredients and the bribe amount has also been recovered. It is next submitted that as there is ample material in the record put forth by the prosecution; which is sufficient enough for conviction of the petitioner for the offence punishable under Sections 7 and 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988 and as the impugned order do not suffer from any illegality, the same ought not be interfered with by this Court in exercise of its revisional jurisdiction.

6. It is pertinent to mention here that it is a settled principle of law that the accused put forth any material by way of defence at the stage of framing of charge and persuade the court to discharge him as has been held by the Hon'ble Supreme Court of India in the case of M.E. Shivalingamurthy vs. Central Bureau of Investigation, Bengaluru (2020) 2 SCC 768 in paragraph no.29, which reads as under "29. It is not open to the accused to rely on the material by way of defence and persuade the court to discharge him. "(Emphasis Supplied)

7. Coming to the facts of the case, perusal of the record reveals that there is direct and specific allegation against the petitioner of demanding, accepting and recovery of the bribe amount and in view of such material in record, the discrepancy if any, regarding the estimated amount for which the tender was floated is not a sufficient ground to discharge the petitioner-accused at the threshold of the prosecution.

8. Considering the aforesaid facts of the case and the principle of law as discussed above; this Court is of the considered view that there is no perversity or any illegality in the impugned judgment warranting interference with the same by this Court in exercise of its revisional jurisdiction. Accordingly, this criminal revision being without any merit is dismissed.