
(2022) 03 JH CK 0043

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1224 Of 2017

Firoz Abdi

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 11-03-2022

Acts Referred:

Mines Act, 1952 — Section 70, 72A, 72C(1)(a), 79, 79(2)
Code Of Criminal Procedure, 1973 — Section 202

Citation : (2022) 03 JH CK 0043

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Pandey Neeraj Rai, Satish Keshri

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

This petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

This petition has been filed for quashing the entire criminal proceeding in C/7 Case No.7 of 2015, pending in the court of learned Chief Judicial Magistrate, Chaibasa for the offences punishable under sections 70, 72A and 72C(1)(a) of the Mines Act, 1952, including the order taking cognizance dated 06.02.2015, pending in that learned court.

The complaint case was filed stating therein in the court of learned Judicial Magistrate 1st Class, Chaibasa, West Singhbhum on 30.1.2015 which was registered as C/7 Case no.07 of 2015. It was in the nature of a prosecution report filed by the Deputy Director of Mines Safety and Inspector of Mines, Chaibasa Region, Chaibasa. The allegations were made of commission of offences under section 70, 72A and 72C(1)(a) of the Mines Act, 1952 against the

petitioners herein. The petitioner no.1- Firoz Abdi @ Md. Firoz Abdi has been made accused in his capacity as the nominated owner of Parambaljori Iron and Manganese Mine, Anindita Steel Ltd. and petitioner no.1- Sanjay Sinha has been implicated in his capacity as Agent of Parambaljori Iron and Manganese Mine, 3rd accused-B.N.Trivedi, has been implicated in his capacity as Manager of Parambaljori Iron and Manganese Mine. There was yet another, a 4th accused, impleaded as Sri Nand Kishore Jha, described as the truck driver of the Parambaljori Iron and Manganese Mine. It has been alleged in the complaint that the complainant made inspection of the Mine on 20.08.2014 and 22.9.2014 into the causes and circumstances that lead to a fatal accident which took place on 11.8.2013, about which he came to learn on 20.8.2014. During the inspection and enquiry it was revealed that a moving truck ran over a loading supervisor (unqualified) who was approaching on motorcycle to the loading point near crusher situated within the mine boundary of an open cast mine, because of which he died on the way to hospital.

Mr. Pandey Neeraj Rai, the learned counsel for the petitioners submits that section 79 of the Mines Act provides of filing the complaint within six months of the date on which the offence is alleged. According to him, the occurrence took place as disclosed in the complaint that on 11.8.2013 however complaint filed on 31.01.2015 which is much after limitation prescribed in the Act. He submits that the petitioners are residing at Ranchi whereas the case has been filed at Chaibasa and there is non compliance of section 202 Cr.P.C.

Mr. Satish Prasad, the learned counsel for the respondent State submits that there is no illegality and rightly the complaint has been filed and the cognizance is also in accordance with law.

On perusal of the complaint, it transpires that the date of occurrence has been disclosed on 11.08.2013 at 6.15 a.m. The date of knowledge has been disclosed on 20.08.2014. This complaint was filed on 30.1.2015. Sub section 2 of section 79 of the said Act prescribes limitation. Sub section 2 of section 79 of the Mines Act provides as under:

"79.(ii). Within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or (ii a) in any case in which the accused is or was a public servant and previous sanction of the Central Government or of the State Government or of any other authority is necessary for taking cognizance of the offence under any law for the time being in force, within three months of the date on which such sanction is received by the Chief Inspector)"

In view of the above facts and considering that in that section it is clear that the complaint has been filed much after the period of limitation prescribed under section 79 of the said Act. Admittedly, the petitioners are residing at Ranchi and the prosecution was lodged at Chaibasa and there is no compliance of section 202 Cr.P.C.

The Court has perused the cognizance order dated 06.02.2015 in which no satisfaction of the concerned court is disclosed. It is well settled that for taking cognizance a detailed order is not required and what are the prima facie material against the accused are required to be disclosed which is absent in the cognizance order. No petition has been filed for condonation of delay and cognizance order has not discussed about the delay.

In view of the above facts and considering that after much belatedly the complaint has been filed, the cognizance order is not in accordance of law, section 202 of Cr.P.C has not been complied with and in view of the above reasons and the analysis, the entire criminal proceeding in C/7 Case No.7 of 2015, pending in the court of learned Chief Judicial Magistrate, Chaibasa for the offences punishable under sections 70, 72A and 72C(1)(a) of the Mines Act, 1952, including the order taking cognizance dated 06.02.2015, pending in that learned court so far as petitioners are concerned is hereby quashed.

The petition is allowed and disposed of.