
(2005) 07 JH CK 0062

In the Jharkhand High Court

Case No : Criminal Revision No. 233 of 2004

Harendra Prasad Gond

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 25-07-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239
Penal Code, 1860 (IPC) — Section 420, 471

Citation : (2005) 4 JCR 421

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Rajeeva Sharma, S.C. Mishra and Rita Kumari, for the Appellant; M. Patra, APP, for the Respondent

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard.

2. The petitioner has challenged the order dated 24.1.2004 passed by the learned Additional Chief Judicial Magistrate, Saraikela, whereby he has rejected the petition u/s 239 of the Code of Criminal Procedure, filed by the petitioner for his discharge.

3. The facts, in short, are that on the basis of the written report of the Block Development Officer, Saraikela, a First Information Report was registered under Sections 420 and 471 of the Indian Penal Code against the petitioner, alleging therein that the petitioner by committing fraud got a caste certificate issued in his favour declaring himself to be a member of scheduled tribe. The police after investigation submitted charge-sheet and thereafter, cognizance was taken under the aforesaid sections.

4 The petitioner has challenged the impugned order on the ground that he belongs to a caste (Gond), which has already been declared as scheduled tribe in the State of Bihar and he originally belongs to the district of Siwan, but after

1983 he was residing at Saraikela.

5. It appears that the petitioner had applied for dealership of Liquid Petroleum Gas of Indian Oil Corporation and along with the said application, he attached caste certificate issued by the Block Development Officer, Saraikela, which is said to have been obtained by him by committing fraud.

6. It appears that the Deputy Commissioner, Seraikela-Kharsawan conducted an inquiry as to how the caste certificate was issued by the Block Development Officer in favour of the petitioner. The Deputy Commissioner, Seraikela-Kharsawan after conducting the inquiry, forwarded the same to the Deputy Commissioner, Singhbhum (West) by his letter dated 28.2.2002 as contained in Annexure-19 to the Supplementary Affidavit.

7. From the said inquiry report (Annexure-19), it appears that the Deputy Commissioner has only held that since the petitioner was a resident of district of Gopalganj and he was not a resident of this area and, therefore, he cannot be a member of Scheduled Tribe. On that basis, he held that the issuance of caste certificate in favour of the petitioner by the Block Development Officer was wrong and, therefore, he recommended for cancellation of the said certificate in favour of the petitioner. *

8. From the facts stated above, it is clear that on an application submitted by the petitioner before the Block Development Officer, Seralkela for issuance of a caste certificate, the Block Development Officer after making inquiry issued caste certificate to the petitioner, the Deputy Commissioner, Seraikela-Kharsawan also did not find that the petitioner had in any manner or in any way committed any fraud or misled any competent authority, so as to come to the conclusion that he belonged to the member of the Scheduled Tribe. If the Block Development Officer without making any proper inquiry issued the caste certificate in favour of the petitioner, he should blame himself and he cannot hold the petitioner responsible for any omission or commission made by him. It appears that now the caste certificate issued to the petitioner has already been cancelled.

Considering the above facts. I find that the petitioner is being unnecessarily harassed for no fault on his part, rather for the fault committed by the Block Development Officer. Serikela the petitioner is being penalised by dragging him in a criminal case. In my view, no case, whatsoever of criminal nature is made out against the petitioner and these aspects of the matter were not considered by the Additional Chief Judicial Magistrate, while rejecting the prayer for discharge of the petitioner. There is no material, at all against the petitioner for framing of charge against him. Accordingly, this application is allowed, the impugned order of the learned Additional Chief Judicial Magistrate, refusing to discharge the petitioner is hereby set aside and the petitioner is discharged. Appeal allowed.