
(2013) 01 JH CK 0188

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1264 of 2007

Jagdish Singh, Basudev Roy and Research and Development
Centre

APPELLANT

Vs

The State of Jharkhand and Rakesh Prasad

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 1 AJR 760 : (2013) 1 JLJR 414

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—In spite of the intervention petition was rejected yesterday, counsel appearing for the intervenor was allowed to put forth his points when the matter was taken up for hearing. This application has been filed for quashing of the order dated 10/08/2007, whereby and whereunder the then Chief Judicial Magistrate, Bokaro, took cognizance of the offence punishable u/s 31 of the Industrial Dispute Act, 1947, against the petitioners.

2. The case of the complainant is that certain workers, 9 in numbers, who were working in the Research & Development Centre for Iron and Steel at Bokaro, were removed from the service while a conciliation proceeding was going on. On such allegation, a complaint was lodged, which was registered as I.D. Case No. 08 of 2007, in which cognizance of the offence was taken against the petitioners u/s 31 of the Industrial Dispute Act vide order dated 10/08/2007, which is under challenged.

3. Mr. Sinha, learned counsel appearing for the petitioners submits that in the complaint, the date of offence has been mentioned as 18/05/1994, whereas the complaint has been filed on 10/08/2007, which is hit by Section 468 of the Code of Criminal Procedure as the punishment prescribed u/s 31 of the Industrial Dispute Act, is six months and in that event the Court should not have taken cognizance of the offence after lapse of 13 years and hence, the order taking cognizance which suffers from illegality is fit to be set aside.

4. Learned counsel appearing for the intervenor submits that it is true that the punishment which is prescribed u/s 31 of the Industrial Dispute Act is six months but the provisions of the Code of Criminal Procedure including the provision as enshrined u/s 468 of the Code of Criminal Procedure, would not be applicable so far as the offence under the Industrial Dispute Act is concerned.

5. I do not find any substance in the submissions made on behalf of the intervenor as nothing seems to be there in the Industrial Dispute Act which excludes the provision of Section 468 Cr.P.C., and as such, the provision as contained in Section 468 Cr.P.C., would very much applicable even in a case under the Industrial Dispute Act. Admittedly, the date of offence is 18/05/1994, whereas the complaint has been lodged on 10/08/2007, i.e. almost after 13 years from the date of alleged commission of offence. The offence alleged is punishable for six months. In such situation, the order taking cognizance is hit by the provision as contained in Section 468(2)(b) of the Code of Criminal Procedure. Accordingly, the order dated 10/08/2007, taking cognizance, is hereby set aside.

In the result, this application stands allowed.