
(2009) 11 JH CK 0140
In the Jharkhand High Court

Lal Bihari Rajak

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 09-11-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 120B(2), 420, 467, 468

Citation : (2009) 11 JH CK 0140

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Judgement

D.K. Sinha, J.—This Cr. Revision is directed against the order impugned dated 18.2.2009 passed by Smt. Kusum Kumari, Judicial Magistrate, 1st Class, Bokaro in G.R. No. 79 of 2004 by which the petition filed on behalf of the petitioner for his discharge for the alleged offence under Sections 467/468/471/420 r/w Section 120B of the Indian Penal Code was rejected.

2. The prosecution story as narrated in the written report presented before the Bokaro Police by the informant Treasury Officer, Bokaro was that he had received Pension Payment Order of one Ram Das and Bimla Devi, resident of village Kurnnidih, P.S. Balidih, District-Bokaro vide P.P.O. No. S/007125/2000 A.M.C., Lucknow and C.D.A., Allahabad. The informant Treasury Officer gathered that against the said P.P.O. three bills for the payment of Rs. 2,66,275/-, Rs. 1,35,620/- and Rs. 9603/- were issued and on the basis of such bills Treasury Advice Note No. 322,323 & 324 respectively were sent by the Treasury to the Chas Court Branch of the State Bank of India on 17.08.2000. On the other hand, the pay order amounting to Rs. 4,11,498/- was deposited by Ram Das (alleged pensioner) in his account at Jodhadih More Branch of the Bank of India and consequently clearance was obtained by the Bank of India from the State Bank of India on 24.08.2000. It was alleged that after clearance of his first payment, the P.P.O. of Ram Das was transferred in his account No. 19271 from the Treasury but the same was returned after some time by the Bank of India with the endorsement that the Pensioner Ram Das was not turning up in spite of several

communication made to him to receive his pension. Enquiry was made by the Treasury Officer and consequently it was reported that the alleged P.P.O. was not sent by the A.M.C., Lucknow and that the same were forged. The P.P.O. was sent to the C.D.A.(G) Allahabad for verification and the same was found forged by the said authority in cross-check. The Treasury Officer on such reports instituted a case against Ram Das and others vide B.S. City P.S. Case No. 22 of 2004 for the alleged offence under Sections 467/468/471/420/120B of the Indian Penal Code.

3. Learned Counsel submitted that the petitioner was innocent who had nothing to do with the alleged offence. The only allegation against the petitioner was that he had asked one Rajesh Kumar Singh to introduce the principal accused Ram Das in the treasury.

4. Advancing his argument, learned Counsel explained with reference to Treasury Rules that any pension order received from the defence organization is to be verified and confirmed by sending request letter with the P.P.O. to the defence organization at Lucknow from where P.P.O. was issued, but in the instant case, though the alleged P.P.O. was received in the Treasury Office, Bokaro but it was not verified by sending the P.P.O. under the registered cover. As a matter of fact, such request letter calling for verification report was made over to Ram Das by the dispatcher of the Treasury namely Keshav Mahto and in return Ram Das brought the letter affirming the genuineness of P.P.O., in his favour and therefore, the participation of the Treasury Staff in the alleged offence cannot be ruled out. If the Treasury Rules could have been followed in strict sense, then the alleged forgery could have been detected at the initial stage and no payment could have been made.

5. Concluding his argument, learned Counsel submitted that it was gathered in course of investigation that the employee and officers of Chas Treasury committed gross negligence by giving go-bye to the Treasury Rules inasmuch as they did not get the P.P.O. verified. There was no material on the record showing involvement of the petitioner in the alleged forgery committed by the co-accused Ram Das. The petitioner was not named in the F.I.R. but even though charge-sheet was submitted against him pending investigation against several accused persons whose complicity was gathered in course of investigation. To sum up his argument the Counsel for the petitioner submitted that the only evidence that was available against the petitioner was that one Rajesh Kumar Singh, a peon in the office of L.R.D.C. was said to have identified the principal accused Ram Das at the instance of the petitioner although the petitioner out rightly denied such allegations and the materials on the record were not sufficient for framing of charge against the petitioner for the alleged offences in which cognizance was taken and that the learned Judicial Magistrate without appreciating the merit dismissed the petition filed for discharge of the petitioner.

6. Learned A.P.P. opposed the contention by submitting that the learned Judicial Magistrate upon conscious consideration of the case diary and the materials available on the record as also relying upon the materials contained in paragraph

No. 109 of the case diary wherein it was found that the petitioner had also obtained Rs. 500/- for the alleged act the learned Judicial Magistrate dismissed petition preferred for his discharge.

7. Having regard to the facts and circumstances of the case, I find that the allegation of forgery, prima facie, is not levelled against the petitioner which is directed against the principal accused Ram Das and his wife. I further find that the authorities of the Bokaro Treasury shirked in getting the P.P.O. verified by sending it to such office of defence in Allahabad and Lucknow to find out its genuineness and credibility but instead, the request letter for verification of the P.P.O. was made over to the principal accused Ram Das without care and caution who produced the verification report affirming that his P.P.O. was genuine. According to the learned Counsel for the petitioner, such conduct of the officials of the Treasury Office was against the provisions of Treasury code especially in the instant case when the P.P.O. of pensioner was received for disbursement of pension on the monthly basis. I further find that though there was no direct allegation of committing forgery, prima facie, against the petitioner Lal Bihari Rajak, Yet, his alleged complicity by which he had asked one Rajesh Kumar Singh, a peon in the office of L.R.D.C. to identify the accused Ram Das gives inkling prima facie of his participation and therefore, I do not find it to be a fit case for his discharge in the alleged offence u/s 120B I.P.C. Under the given facts and circumstances and on the argument advanced at the later stage by way of reply that no prima facie offence under Sections 467/468/471 was made out against him for want of any direct allegation against the petitioner that he had himself prepared false document or that he had put his signature at any stage on the Bill or P.P.O. during the alleged transaction. I find reason to believe that prima facie no offence is made out under Sections 467/468/471 I.P.C. against the petitioner. However, it would be too early to hold as to whether he was the participant in the criminal conspiracy hatched for personal gain or for the gains of the co-accused. Therefore, in view of above discussions, this Cr. Revision is allowed by setting aside the charge under Sections 467/468/471 & 420 I.P.C. as framed against him but the charge alleged and framed u/s 120B(2) Indian Penal Code against the petitioner, prima facie, holds good and he may be proceeded for the said charge in accordance with law.

8. With the aforesaid observation, this petition is disposed of.