
(2023) 05 JH CK 0013

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1504 Of 2023

Lalu Mishra @ Lallu Mishra

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 03-05-2023

Acts Referred:

Indian Forest Act, 1927 — Section 29, 30, 30(b), 33, 63, 66A

Citation : (2023) 05 JH CK 0013

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : P.A.S. Pati, Vijay Kumar Sinha

Final Decision : Allowed/Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. P.A.S. Pati, the learned counsel for the petitioner and Mr. Vijay Kumar Sinha, the learned counsel appearing on behalf of the respondent State.
2. This petition has been filed for quashing of the order taking cognizance dated 28.11.2011 including the entire criminal proceeding arising out of G.O. No.129 of 2010, pending in the court of learned Chief Judicial Magistrate, Seraikella.
3. The prosecution report was filed alleging therein that the officers of the forest department while making patrolling in the forest area on 28.11.2010 and when they reached the place of occurrence in Osangi P.F. he found that some persons had left plinth for construction of house. On seeing the patrolling party, the labourers were started fleeing away on chase three labourers apprehended who disclosed the name of the accused persons including the petitioner who had employed the labourers for making construction of house.
4. Mr. Pati, the learned counsel for the petitioner submits that the learned court has taken cognizance against the petitioner under the Indian Forest Act. He submits that the said case was registered only on the basis of suspicion. Further

he submits that on the basis of notification of the year 1954, it has been assumed that the said land was forest land and the petitioner was doing some activity on that land and in that score, the case has been filed. He further submits that there is nothing on the record along with the report of the Forest guard that the said land was further notified in view of section 30 of the Indian Forest Act. On these grounds, he submits that nothing cogent is there so far as this petitioner is concerned.

5. Mr. Vijay Kumar Sinha, the learned counsel appearing on behalf of the respondent State submits that prima facie case has been made out and that is why the learned court has taken cognizance under sections, 33, 66A and 63 of the Indian Forest Act.

6. In view of the above submission of the learned counsel appearing on behalf of the parties, the Court has gone through the contents of the F.I.R and finds that on the confessional statement of the co-accused the name of the petitioner has inserted and apart from that, nothing is there. What kind of activity the petitioner was doing on the land in question is not there. Further the Court finds that the order taking cognizance dated 28.11.2011 is also not in accordance with law as the 'sections' and the word 'cognizance' have been filled up in the blank space which suggest that there is non-application of judicial mind. Even assuming that notification of the year 1958 issued in light of section 29 of the Indian Forest Act, 1927 is a notification under section 30(b) of the Act and further in view of section 30 of the said Act, the said notification remained in force till 30 years only and there is nothing on the record which further suggest that to the effect further notification was there.

7. In view of the above, entire criminal proceeding including the order taking cognizance dated 28.11.2011 arising out of G.O. No.129 of 2010, pending in the court of learned Chief Judicial Magistrate, Seraikella is quashed.

8. Cr.M.P. No.1504 of 2014 is allowed and disposed of.

9. Pending petition if any also stands disposed of.