
(2011) 06 JH CK 0044
In the Jharkhand High Court
Case No : Criminal M.P. No. 98 of 2011

Maheshwari Prasad

APPELLANT

Vs

The State of Jharkhand and Pradeep Ram

RESPONDENT

Date of Decision : 27-06-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 167(2), 482
Prevention of Corruption Act, 1988 — Section 13(2), 19, 7

Citation : (2011) 06 JH CK 0044

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.K. Sinha, J.—The Petitioner has invoked the inherent jurisdiction of this Court for the quashment of the First Information Report alleged against him as also the charge-sheet in the said case submitted on 31.10.2000, arising out of Lalpur P.S. Case No. 122 of 2000 on 31.03.2000, corresponding to Special Case No. 10 of 2000 for the alleged offence u/s 7 and 13(2) of the Prevention of Corruption Act, 1988.

2. The Petitioner had earlier moved for the quashment of the F.I.R. of Lalpur P.S. Case No. 122 of 2000 in Cr. M.P. No. 1041 of 2009, which was disposed of on 28.01.2010 with the observation,

I am surprised to see the allegation made in the complaint that on 30.10.2000 the informant Pradeep Ram was driving his truck and at one place some uniformed persons signaled the truck to stop. The said persons demanded the papers concerning the truck and after its perusal demanded Rs. 10,000/-. On refusal one of them asked the informant to come to Apsara Hotel to take back his paper. The informant alleged to have gone to Apsara Hotel and offered Rs. one thousand and demanded his papers whereupon the officer became angry and asked the informant to bring Rs. 10,000/-. In course of investigation a trap party conducted raid in Apsara Hotel and arrested the Petitioner, who is said to be the

Sub-Inspector.

I am afraid in such serious cases where a police officer is involved in commission of the offence, F.I.R. is to be quashed in exercise of power u/s 482 Code of Criminal Procedure

Mr. Rajesh Kumar, learned Counsel appearing for the Petitioner submitted that the Investigating Officer submitted charge-sheet without obtaining sanction u/s 19 of the Prevention of Corruption Act and for that the matter is pending for the last 9 years.

Considering the submission of the learned Counsel for the Petitioner, I direct the competent authority to accord sanction, if necessary, u/s 19 of the said Act as expeditiously as possible and preferably within a period of four weeks from the date of receipt of copy of this order.

3. The Petitioner moved before the Supreme Court of India by filing Special Leave to Appeal (Cr.) No. 3714 of 2010 but the same was dismissed upholding the order of this Court recorded in Cr. M.P. No. 1042 of 2009.

4. Advancing his argument, Mr. Rajesh Kumar, learned Counsel appearing for the Petitioner submitted that direction which was made by this Court in Cr. M.P. No. 1041 of 2009 on 28.01.2010 was deliberately not complied whereby sanction u/s 19 of the P.C. Act, 1988 was directed to be accorded preferably within a period of four weeks of the receipt of the communication of the order and therefore the Petitioner craved the indulgence of this Court once again with the fresh cause of action for quashment of the F.I.R. and the charge-sheet submitted against him in view of the fact that the case was instituted in the year 2000 and the charge-sheet was submitted after 7 years without ascertaining sanction for prosecution u/s 19 of the Prevention of Corruption Act and that the learned Special Judge did neither take cognizance of the offence under the relevant Section of P.C. Act nor did he discharge the Petitioner for want of sanction.

5. By filing a supplementary affidavit, the Petitioner disclosed that he had earlier moved before this Court in Cr. M.P. No. 8494 of 2000 with the similar prayer which was dismissed for default and thereafter he had filed another Cr. M.P. No. 1041 of 2009 which was disposed of by the order dated 28.01.2010 and the instant case was the third petition for the same and similar relief.

6. In the counter-affidavit filed, the State- Opposite Party pleaded that the order passed by a Bench of this Court in Cr. M.P. No. 1041 of 2009 on 28.01.2010 was affirmed and upheld by the Apex Court and therefore, the subsequent petition by invoking the inherent jurisdiction of this Court for the same and similar relief was not maintainable. The I.O. after concluding investigation submitted charge-sheet against the Petitioner having found prima facie case for the offence u/s 7 and 13(2) of the Prevention of Corruption Act, 1988 and that the Investigating Officer has already moved before the competent authority requesting for sanction u/s 19 of the P.C. Act against the Petitioner for the alleged charge. It was further stated

that the Petitioner was admitted to bail at the initial stage under mandatory provision of Section 167(2) of the Code of Criminal Procedure.

7. Mr. J. Mahato, learned A.P.P. for the State submitted that admittedly while disposing of Cr. M.P. No. 1041 of 2009 on 28.01.2010 by rejecting the prayer of the Petitioner this Court had directed the competent authority to accord sanction as expeditiously as possible and preferably within a period of four weeks from the date of receipt of a copy of this order which could not be for the reason that the request of the I.O. is in process and the sanction is likely to be accorded within few weeks.

8. Having regard to the facts and circumstances of the case, I find that the present Misc. Petition u/s 482 Code of Criminal Procedure is maintainable for the reason that the direction of this Court as made in Cr. M.P. No. 1041 of 2009 on 28.01.2010, affirmed by the Apex Court, referred to herein above could not be complied within time frame and even much beyond that. In the facts and circumstances the competent authority is directed to pass appropriate order on the request of the Investigating Officer seeking sanction u/s 19 of the Prevention of Corruption Act, 1988 to proceed against the Petitioner Maheshwari Prasad arising out of Lalpur P.S. Case No. 122 of 2000 u/s 7 and 13(2) of the P.C. Act within six weeks of this order being the last indulgence failing to which it shall be deemed that no sanction has been accorded and the Special Judge (Vigilance) would proceed in accordance with law. Let a copy of this order be immediately delivered to Mr. J. Mahto, A.P.P. for compliance.