
(2013) 08 JH CK 0001

In the Jharkhand High Court

Case No : Cr. Revision No. 893 of 2012

Man Mohan Lal Sharma @ Mohan Lal Sharma

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 15-08-2013

Acts Referred:

Citation : (2013) 08 JH CK 0001

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Ranjan Prasad, J.—This revision application is directed against the order dated 5.9.2012 passed in Vigilance P.S. Case No. 68 of 2010 (Special Case No. 85 of 2010), whereby and whereunder prayer for discharge of the petitioner was rejected. It is the case of the prosecution that a decision was taken by the Director, Secondary Education, Jharkhand, Ranchi to raise infrastructure of 8 newly upgraded high schools situated at Bokaro for which the State Government was to finance and the work was to be done departmentally through the District Engineer, Zila Parishad, Bokaro.

2. Further case is that the District Engineer entrusted one Ashok Kumar Bharti to do construction work of the buildings of 5 high schools. He did the work and took payment of a sum of Rs. 99,41,652/- through cheque, issued by the petitioner being D.D.C.-cum-C.E.O., Zila Parishad, Bokaro. Subsequently, on physical verification when it was found that the work worth Rs. 62,79,870/- has been done, rest of the amount of Rs. 40,19,677/- was recovered and was deposited with the Treasury, Bokaro. Subsequently, it came to know that one Ashok Kumar Bharti along with other teachers were imparted training for taking job of civil engineer. Having received training, Ashok Kumar Bharti was entrusted to do construction work of the buildings of several high schools situated in different blocks of Bokaro District and thereby he misappropriated huge money and, therefore, a case bearing Vigilance P.S. Case No. 68 of 2010 (Special Case No. 85

of 2010) was registered.

3. Upon completion of the investigation, charge-sheet was submitted upon which cognizance of the offences punishable under Sections 403, 406, 409, 467, 468, 471, 109 and 120B of the Indian Penal Code and also under Sections 7/13(2) read with Sections 13(1)(d)(c) of the Prevention of Corruption Act, 1988 was taken against the petitioner. Thereupon an application was filed on behalf of the petitioner for his discharge from the accusation stating therein that there has been absolutely no material showing culpability on his part in the alleged offence. That application was rejected vide order dated 5.9.2012 which is under challenge.

4. Mr. Indrajit Sinha, learned counsel appearing for the petitioner, submits that before lodging the case, the matter had been inquired into with respect to construction of the buildings of 5 upgraded high schools, during which it was found that when policy was made to get the buildings of upgraded school constructed through departmentally, job was entrusted by the petitioner being C.E.O. of Zila Parishad, Bokaro to the District Engineer but the District Engineer without taking approval of the petitioner entrusted the job to Ashok Kumar Bharti to whom payment was made through cheque by the petitioner when he had partly constructed the building. Since the District Engineer had had no separate account, it is for the petitioner to make payment from the fund received but as soon as the petitioner came to know that he has received the amount in excess than the work done, he immediately took steps for recovery of the amount and a sum of Rs. 40,19,677/- was recovered and was deposited in the Treasury. In spite of all these findings being recorded during inquiry, case was registered against the petitioner and even charge-sheet was submitted, upon which the court took cognizance of the offences, whereas on the materials available on the record, one does not find any culpability on the part of the petitioner, and therefore, the court certainly did commit illegality in rejecting the petition for discharge.

5. As against this, Mr. Shailesh, learned counsel appearing for the Vigilance, submits that a decision has been taken to get the work done through the District Engineer, still the work was allotted to Ashok Kumar Bharti who was not authorized to do work of construction of the buildings of upgraded high schools and the payment was made to him through cheque by the petitioner without making any verification of the work done by Ashok Kumar Bharti and thereby, there appears to be connivance on the part of the petitioner and under this situation, the court certainly did not commit any illegality in refusing to discharge the petitioner from the accusation.

6. The case, which has been projected on behalf of the prosecution, does not seem to be in consonance either with the inquiry report or with the investigation made by the Vigilance. From the inquiry report, which is a part of the F.I.R., it is evident that when a decision was taken to get the buildings of upgraded high schools constructed by the District Engineer of the District Board, the petitioner being C.E.O. of District Board entrusted the job to the District Engineer but it was

the District Engineer who entrusted the job to Ashok Kumar Bharti without taking its approval from the petitioner.

7. Further, from the inquiry report, it does appear that since the District Engineer had no separate account, the fund was available with the District Board, account of which was being operated by the petitioner being C.E.O. of Zila Parishad. In that event, payment was made to Ashok Kumar Bharti. It has also come during investigation and also during inquiry that as soon as the petitioner came to know that Ashok Kumar Bharti never happens to be an Engineer rather he is an Assistant Teacher and that he has taken the amount in excess than the work done, the amount taken in excess of Rs. 40,19,677/- was immediately recovered and was deposited with the Treasury. At the same time, it is also there in the inquiry report that this petitioner was never knowing Ashok Kumar Bharti from before. Under the circumstances, one cannot conceive a case of conspiracy on the part of the petitioner and, therefore, the case, made that the petitioner had also connived with the other accused persons, seems to be wholly misconceived.

8. Under the circumstances, neither the offence under the Indian Penal Code nor under the Prevention of Corruption Act is made out but the court did not consider the matter in right perspective and hence, the order impugned, under which prayer for discharge has been rejected, is hereby set aside. Consequently, the petitioner is discharged from the case. In the result, this revision application stands allowed.