
(2008) 12 JH CK 0058
In the Jharkhand High Court

Manas Kumar Bindu @ Manas Kr.

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-12-2008

Acts Referred:

Forest (Conservation) Act, 1980 — Section 3A

Forest Act, 1927 — Section 26

Wild Life (Protection) Act, 1972 — Section 51

Citation : (2009) 1 JCR 279

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard the parties and with their consent this writ application is disposed of at this stage itself.

2. In this application, the prayer of the petitioner is to quash the order dated 24.05.2006 passed by the learned Chief Judicial Magistrate, Chaibasa taking cognizance for the offence u/s 26 of the Indian Forest Act as well as u/s 3A of the Forest Conservation Act and u/s 51 of the Wildlife Protection Act against the petitioner in connection with C/3 Case No. 5/2000.

3. The facts in short, given rise to this application, are that a prosecution was launched at the instance of forest guard by filing a prosecution report, wherein he alleged that it is came to his knowledge that a bus belonging to Meghahatuburu Iron Ore Mines was travelling to forest area and in that course a barking deer got hit by the said bus. The driver of the bus brought that injured barking daer in the garage of Meghahatuburu Iron Ore Mines. It is further alleged that on receipt of such information, the informant went to the garage of Meghahatuburu Iron Ore Mines and then came to know that one Dharamchand Prasad was the driver of the said bus. He further came to know that the said barking deer was handed over to one Motki Perti of village Sagwanbera, but the barking deer died by that time, thereafter it was handed over to one Munna

Bario. It is further alleged that the villagers of Sagwanbera consumed the meat of that barking deer. On being enquired, Munna Barjo admitted the killing of barking deer. So far as the petitioner is concerned, it was alleged that inspite of the fact that due information was given to him about the occurrence but he being the General Manager of Meghahatuburu Iron Ore Mines, did not take any action in the matter and, therefore, he was also Indirectly involved in the said commission of the offence.

4. The learned Court below on the basis of allegation made in the prosecution report, took cognizance of the offence vide order dated 24.05.2006 against the accused Munna Barjo, Dharamchand Prasad, Dildar Purti, Motki Purti, Menjari Barjo and also against Manas Kumar i.e. the petitioner herein for the offence u/s 26 of the Indian Forest Act, u/s 3A of the Forest Conservation Act as well as u/s 51 of the Wildlife Protection Act.

5. Mr. Ananda Sen, learned Counsel appearing for the petitioner submitted that only because the petitioner is holding the post of General Manager of Meghahatuburu Iron Ore Mines and, therefore, he has been made an accused in the case, though there is no allegation at all against him that he had any hand in killing of that barking Deer or that he also consumed its meat. He further submitted that according to the prosecution report, it is only alleged that the petitioner being the General Manager did not take any action and, therefore, he is indirectly responsible for the commission of the said offence.

6. A counter affidavit has been filed on behalf of the State, wherein it is stated that in spite of getting information, the petitioner being the General Manager of the Iron Ore Mines did not try to take any action nor did he show any interest in the matter.

7. It is not disputed that there is no allegation or material to show that this petitioner was in any way directly involved in any manner in the commission of the offence or therefore it can not be presumed or inferred that the petitioner having any knowledge of the fact that a forest offence was going to be committed by the other accused persons. The liability or responsibility for commission of such offence by the other accused persons can not be fastened on this petitioner, who was only the General Manager at the relevant time of the said Iron Ore Mines.

8. Therefore, in my view the prosecution of the present petitioner in the aforesaid complaint case is clearly an abuse of the process of the Court.

9. Accordingly, this application is allowed. The impugned order dated 24.05.2006 taking cognizance for the offence so far as against the petitioner only in C/3 Case No. 5/2006 pending before the learned Chief Judicial Magistrate, Chaibasa is hereby quashed. The case against the other accused shall proceed in accordance with law.