

(2017) 07 JH CK 0038
In the Jharkhand High Court
Case No : 699 of 2017

M/s Adhunik Power and Natural Resources Limited	APPELLANT
Vs	
Central Coalfields Limited & Ors	RESPONDENT

Date of Decision : 18-07-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#), [Section 156\(3\)](#) - Saving of inherent powers of High Court - Police officers power to Investigate cognizable case
[Indian Penal](#)

Citation : (2017) 07 JH CK 0038

Hon'ble Judges : Rongon Mukhopadhyay

Bench : SINGLE BENCH

Advocate : A.K. Das, Mahesh Tewari

Final Decision : Allowed

Judgement

1. Heard Mr. A.K. Das, learned counsel for the petitioner and Mr. Mahesh Tewari, learned counsel for the opposite party no. 2.

2. In this application the petitioner has prayed for quashing of the entire criminal proceedings in connection with Complaint Case No. 367 of 2014 including the order dated 02.03.2017 passed by the learned Chief Judicial Magistrate, Latehar whereby and whereunder cognizance has been taken for the offences punishable u/s 419, 465, 467, 471 and 120-B of the Indian Penal Code .

3. It has been submitted by the learned counsel for the petitioner that no offence is made out against the petitioner. Learned counsel for the petitioner submits that the petitioner has been implicated only because of the fact that the petitioner happens to be the President of Jharkhand Cricket Association and the rival groups have sought to target the petitioner by imposition of a false criminal case against him. Learned counsel for the petitioner submits that the Police had found the case to be false which resulted in submission of final form but on a

protest petition cognizance was taken by the learned court below without their being any prima facie case made out against the petitioner. It has also been submitted that the criminal case has been lodged at the instance of one Praven Kumar who had contested against the petitioner for the post of President in the Jharkhand State Cricket Association but had lost. Learned counsel for the petitioner further submits that at best the allegation can be made out against one Pankaj Kumar Singh who was the President of Latehar District Cricket Association and not the petitioner. It has therefore been submitted that since no prima facie case is made out against the petitioner the entire criminal proceedings as against the petitioner deserves to be quashed and set aside.

4. Mr. Mahesh Tewari, learned counsel for the opposite party no. 2 on the other hand has submitted that clear cut allegations have been made out in the First Information Report itself and the Police had merely conducted a perfunctory investigation while submitting final form in favour of the petitioner. It has been submitted that inquiry report of the Officer-in-charge, Latehar police on a complaint made by the opposite party no. 2 reveals that the signature of the members of the Latehar District Cricket Association were forged and by forging the signatures resolutions were passed against the opposite party no. 2. Learned counsel for the opposite party no. 2 further submits that this Court in an application u/s 482 of the Cr.P.C . cannot look into the defence of the petitioner as it is a matter of trial and therefore this application is liable to be dismissed.

5. Initially a complaint case was instituted by the opposite party no. 2 being C-188/13 which was referred to the Police u/s 156(3) of the Cr.P.C . and subsequently registered as Latehar P.S. Case No. 123 of 2013. The allegations made in the First Information Report is to the effect that the petitioner along with one Pankaj Kumar Singh and others had committed criminal breach of trust, cheating and forgery against the office bearers of Latehar District Cricket Association. It has also been alleged that the petitioner and the other accused persons had manipulated the records of Jharkhand State Cricket Association. Investigation into the offence resulted in submission of final form and on being noticed a protest petition was filed by the opposite party no. 2 which was treated as a complaint petition and after conducting an inquiry cognizance was taken for the offences punishable u/s 419, 465, 467, 471 and 120-B of the Indian Penal Code . The pivotal issue with respect to initiation of the criminal proceedings as it seems from perusal of the documents is the control to be exercised over the Latehar District Cricket Association. Earlier a complaint was made by the opposite party no. 2 which was inquired into by the Officer-in-charge of Latehar Police Station and the subject matter of the dispute was the calling of a general body meeting and forging the signature of the members of the Latehar District Cricket Association. The inquiry report found the allegations to be true to the effect that a formal meeting was held but by forging the signatures of the members resolution was passed. The perusal of the inquiry report reveals that the same has concentrated itself on the role of co-accused Pankaj Kumar Singh who happens to be the President of Latehar District Cricket Association. The crux

of the dispute therefore is wresting control over the Latehar District Cricket Association for which the opposite party no. 2 seems to have filed the complaint case. The solemn affirmation of the complainant reveals that the only role of the petitioner is attributed to his giving recognition to the committee of Pankaj Kumar Singh and not to the old committee. The recognition or otherwise of a committee of the District Cricket Association which falls within the aegis of the petitioner in his capacity as President of the Jharkhand State Cricket Association cannot be said to be an offence as no culpability of the petitioner could be detected in giving recognition to the committee of Pankaj Kumar Singh. The opposite party no. 2 was the secretary of the old committee and the dispute as has been stated above stems from the fact of wresting control of the Latehar District Cricket Association. Factionalism in the said Association seems to be the root cause which has catapulted the petitioner to be an accused in a criminal case where the limited role of the petitioner seems to be only of giving recognition to the committee of Pankaj Kumar Singh and not to the old committee. The inquiry report of the Officer in-charge of Latehar Police Station has also concentrated itself on the specific role of Pankaj Kumar Singh and others and not to the petitioner. Although the learned counsel for the opposite party no. 2 has heavily relied upon the inquiry report of the Officer-in-charge of Latehar Police Station but the other witnesses examined in course of inquiry have not revealed an iota of allegation against the petitioner.

6. The petitioner therefore seems to have been implicated primarily because he happens to be the President of Jharkhand State Cricket Association and has supported one faction of the Latehar District Cricket Association by giving it recognition and ignoring the other faction which has led to institution of a criminal case.

7. The facts noted above thus would lead this Court to come to a conclusion that continuation of the criminal proceedings as against the petitioner would be an abuse of the process of Court and would lead to a miscarriage of justice.

8. Accordingly, in view of what has been stated above this application is allowed and the entire criminal proceedings in connection with Complaint Case No. 367 of 2014 including the order dated 02.03.2017 passed by the learned Chief Judicial Magistrate, Latehar whereby and whereunder cognizance has been taken for the offences punishable u/s 419, 465, 467, 471 and 120-B of the Indian Penal Code is, hereby, quashed and set aside so far as the petitioner is concerned.

This application is allowed.