
(2012) 03 JH CK 0183

In the Jharkhand High Court

Case No : Criminal M.P. No. 4427 of 2001

M/s Bharat Coking Coal Ltd. Dhanbad and Others

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 15-03-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 29

Citation : (2013) 3 Crimes 243 : (2012) 3 JCR 205 : (2012) 2 JLJR 204

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Amit Kumar Sinha, for the Appellant; S.S. Prasad, for the Respondent

Final Decision : Allowed

Judgement

R.R. Prasad, J.—Heard the parties. This application has been filed for quashing of the entire criminal proceeding of I.D. Case No. 321 of 2001 including the order dated 11.4.2001 passed by the then Chief Judicial Magistrate, Dhanbad whereby and whereunder, cognizance of the offence punishable u/s 29 of the Industrial Disputes Act, 1947 has been taken against the petitioners.

2. Learned counsel for the petitioners submits that an industrial dispute was raised by the workman-Bhagirath Pandey whereupon a reference was made to the Central Government Industrial Tribunal, Dhanbad. Upon adjudication, an award was passed in favour of the workman. Thereupon, an application seems to have been filed by the concerned workman before the industrial Tribunal on account of non-implementation of the award. On filing of such application, a notice was issued to the petitioners who immediately replied that against the award passed by the Industrial Tribunal, the petitioners had preferred a writ application bearing C.W.J.C. No. 4350 of 2000 which got dismissed on 3.1.2001 and under the situation, specific statement was made that the petitioners would be implementing the award. In spite of that, the Court took cognizance of the offence punishable u/s 29 of the Industrial Disputes Act which is under challenge.

3. From perusal of the record, it does appear that when the notice was issued to the petitioners about non-implementation of award, a show-cause was submitted immediately thereafter that the award could not be implemented as the petitioners had preferred a writ application though it has been dismissed. In that situation, specific statement was made that the award shall be implemented.

4. Further it has been stated that subsequently settlement arrived at in between the petitioners and the concerned workman whereby ail back wages, which were due, were paid to him and he has also been reinstated and thus, there appears to be delay in implementing the award but from the statement made in the show-cause, it does appear that the petitioners never intended not to implement the award and thereby the petitioners cannot be said to have committed offence punishable u/s 29 of the Industrial Disputes Act and thereby the court below appears to have committed illegality in taking cognizance of the offence against the petitioners.

5. Accordingly, the entire criminal proceeding, including the order dated 11.4.2001 passed by the then Chief Judicial Magistrate, Dhanbad in I.D. Case No. 321 of 2001 under which cognizance of the offence has been taken against the petitioners u/s 29 of the Industrial Disputes Act, is hereby quashed. In the result, this application is allowed.