
(2012) 09 JH CK 0176

In the Jharkhand High Court

Case No : Criminal Revision No. 189 of 2004

Nasiruddin Shah and Others

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 05-09-2012

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2012) 09 JH CK 0176

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : J.K. Pasari, for the Appellant; Pawan Kumar Choudhary, Assistant Public Prosecutor for the State, for the Respondent

Final Decision : Dismissed

Judgement

H.C. Mishra

1. Heard Learned Counsel for the petitioners and learned A.P.P. The petitioners are aggrieved by the order dated 27.1.2004 passed in G.R. No. 466 of 1991, whereby, the application filed by the petitioners for discharge has been rejected by learned Court below.

2. It appears that the petitioners have been made accused in Dhanbad (Putki) P.S. Case No. 26 of 1991, when 24 trucks loaded with coal slurry were apprehended by the police. It appears from the F.I.R. that on demand, no document with respect to coal slurry was produced by the drivers of the trucks and accordingly, the case was instituted and the petitioners were also made accused in this case. The petitioners are the driver and owners of some of the apprehended trucks.

3. It appears from the F.I.R. that the case was instituted u/s 7 of the Essential Commodities Act (for short "E.C. Act") and upon investigation, the police had also submitted charge sheet under the said section. It further appears that cognizance was taken against these petitioners for the offence u/s 7 of the E.C.

Act and thereafter, the petitioners filed the application for discharge, which was rejected by the Court below by order dated 27.1.2004.

4. Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in this case. It has also been submitted that in the facts of the case, no offence can be said to be made out u/s 7 of the E.C. Act and accordingly, the impugned order passed by the Court below rejecting the application for discharge is absolutely illegal and the same cannot be sustained in the eyes of law. In support of his contention, Learned Counsel for the petitioners has placed reliance upon a decision of this Court in the case of Awadh Kishore Sahay Vs. State of Bihar & Ors., as reported in [2002 (3) East Cr. C. 147 (Jhr)], wherein in a similar case it was found that no offence can be said to be made u/s 7 of the E.C. Act and the prosecution was quashed.

5. Learned A.P.P. for the State, on the other hand, has opposed the prayer.

6. In the facts of the case and upon going through the impugned order, I find that the case relates to seizure of 24 trucks loaded with coal slurry and upon demand, no document could be produced. In that view of the matter, even if Section 7 of the E.C. Act is not attracted against the petitioners, but some offence certainly is made out and accordingly, at this stage, the petitioners cannot be discharged. It is for the Court below to frame the charge against the petitioners for the appropriate offence. I do not find any merit in this revision application, which is, accordingly, dismissed. Let the lower court records be sent back to the Court below forthwith.