
(2005) 12 JH CK 0019

In the Jharkhand High Court

Case No : Writ Petition (Cr.) No. 204 of 2005

Nawal Kishore Birla and Another

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 20-12-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 468(2)
Forest (Conservation) Act, 1980 — Section 2, 3(A), 3(B)
Forest Act, 1927 — Section 33

Citation : (2006) 1 JCR 413

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : T.R. Bajaj and Ananda Sen, for the Appellant; R.R. Mishra, G.P. II, for the Respondent

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Both the parties were heard in detail at this stage itself and, as such, this application is being disposed of finally with the consent of the parties.

2. The petitioners have prayed for quashing of the prosecution of the petitioners for the offence u/s 33 of the Indian Forest Act and Sections 2, 3(A), (B) of the Forest Conservation Act.

3. A prosecution report was submitted by the Forest Range Officer, Lohardaga against the petitioners alleging therein that on 20.5.1998 while he was on patrolling duty he saw that on Kasiyadih Pakhar Road near Ledra Tongri after cutting a Nala. culvert pipe was being set where seven labourers were working and the said work was being done under the orders of petitioner No. 1 Nawal Kishore Birla as stated by petitioner No. 2 Gagan Pandey. On the basis of the said prosecution report, cognizance was taken for the aforesaid offences.

4. Mr. Bajaj, learned senior counsel appearing for the petitioners submitted that

the cognizance taken for the said offences on 29.10.2002 was barred by the limitation as envisaged u/s 468(2) of the Cr PC. He further submitted that the maximum punishment provided u/s 33 of the Indian Forest Act is six months imprisonment and the maximum punishment provided u/s 3(A), (B) of the Forest Conservation Act, is simple imprisonment which may extend for a period of 15 days, therefore, the cognizance for the said offences could have been taken within a period of one year from the date of the commission of the offence alleged. It is further submitted that in the present case admittedly the date of alleged occurrence is said to be 20.5.1998 and the cognizance was taken on 29.10.2002, i.e. much after the period of limitation of one year prescribed u/s 468(2) of the Cr PC. Therefore, the order taking cognizance as well as the entire prosecution is liable to be quashed.

5. Mr. Mishra, learned G.P. II fairly submitted that he is not in a position to controvert the submissions of Mr. Bajaj, learned senior counsel appearing for the petitioners.

6. Considering the submissions made by both the parties and on consideration of the fact stated above, apparently the impugned order dated 29.10.2002 taking cognizance of the offences is barred by limitation as envisaged u/s 468(2) of the Cr PC.

7. Accordingly, this application is allowed and the order dated 20.10.2002, taking cognizance is hereby quashed. Consequently, the (sic) criminal prosecution is also quashed.