(2008) 08 JH CK 0013

In the Jharkhand High Court

Pashupati Nath Singh @ Dr. Pashupati Nath Singh — APPELLANT

Vs

State of Jharkhand — RESPONDENT

Date of Decision : 08-08-2008

Acts Referred:
Penal Code, 1860 (IPC) — Section 420, 471
Prevention of Corruption Act, 1988 — Section 13

Citation : (2008) 3 JCR 727

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Prasad, J.—Heard learned Counsel for the appellant and learned Counsel appearing for the CBI on the matter of bail.

2. Learned Counsel appearing for the appellant submits that the appellant has been convicted for the offences under Sections 420 and 471 of the Indian Penal Code and also u/s 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and was awarded maximum sentence for seven years for each of the offences of the Indian Penal Code on the allegation that the appellant while was posted as TVO (Mobile) in the District Animal Husbandry Office, Hazaribagh issued certificate of receipt of the medicine without receiving the medicine to the extent to which suppliers claimed to have supplied and thereby the appellant in connivance with others facilitated the suppliers to take payment of the medicine which they had not supplied to the extent to which they claimed but the prosecution has utterly failed in establishing that medicines were never supplied to the Department but, as a matter of fact, medicines were supplied which on being received by the appellant was entered into stock register and got those medicines distributed to various dispensaries and this fact has even been admitted by some of the prosecution witnesses and had those distribution register and stock register which were seized by the CBI brought on the record, the appellant could not have been found guilty for the charges.

3. Learned Counsel appearing for the appellant further submits that after the investigation of the case, the CBI produced sanction order (Ext. 126) dated 3.5.1997 on the basis of which cognizance of the offences was taken against the accused persons but in course of trial, PW 64 deposed that the sanction order dated 3.5.1997 (Ext. 126) had subsequently been cancelled and thereafter another sanction orders (Exts. 124 and 125) were issued but the same had been issued subsequent to date of taking of the offence and as such, entire trial gets vitiated.

4. Learned Counsel also submits that sentence awarded against the appellant is too severe as in similar set of allegation, the Court in other Fodder Scam case has awarded lesser sentence. Moreover, the appellant has already served sentence for a period of 27 months and hence, the appellant be admitted on bail.

5. As against this, learned Counsel appearing for the CBI submits that defence has been taken by the appellant that the appellant having received the medicine granted certificate of receipt but certain prosecution witnesses who are representatives of various Medicine Companies have deposed that certain medicines with specific Brand and Batch Number which have been shown to have been supplied, were never manufactured by them and this fact amply proves that the appellant without receiving medicine granted certificate of receipt and so far point of sanction is concerned, it has been noted by the Court below that as per the evidence of PW 64 the sanction order (Ext. 126) was cancelled and thereupon other sanction orders (Ext. 124 and 125) were issued but those documents never show that the sanction order (Ext. 126) has ever been cancelled. Regard being had to the facts and circumstances of the case, I am not inclined to grant bail to the appellant. Hence, the prayer for bail of the appellant is rejected. However, the appellant would be at liberty to move for bail after serving half of the sentence of the maximum sentence imposed by the trial Court, if the appeal is not taken up before that.