
(2015) 02 JH CK 0030
In the Jharkhand High Court
Case No : Cr.M.P. No. 177 of 2003

Pulakbaran Chakravorty

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-02-2015

Acts Referred:

Standards of Weights and Measures (Enforcement) Act, 1985 — Section 24, 47
Standards of Weights and Measures Act, 1976 — Section 2(2)

Citation : (2015) 02 JH CK 0030

Hon'ble Judges : Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : M.L.K. Chitra, for the Appellant

Final Decision : Allowed

Judgement

Rongon Mukhopadhyay, J.—Heard learned counsel for the parties.

2. In this application, the petitioner has prayed for quashing the entire criminal proceedings including the order dated 30.5.2001, passed by learned Chief Judicial Magistrate, Dhanbad in W.M. Case No. 497 of 2001, by which cognizance for the offence under section 47 of the Standards of Weights and Measures (Enforcement) Act, 1985 (The Act for short) has been taken against the petitioner.

3. The prosecution story as would appear from the complaint instituted by the opposite party No. 2, who is the Inspector, Weights and Measures, is that the weights and measures in E.J. Area, Bhowra Colliery of M/s. Bharat Coking Coal Limited have not been revived up to 30.6.2000 as required under Sub section 2 of section 24 of the Act.

4. After submission of the aforesaid complaint, the learned Chief Judicial Magistrate, Dhanbad vide order dated 30.5.2001 was pleased to take cognizance for the offence punishable under section 47 of the Act.

5. Learned counsel for the petitioner while assailing the order taking cognizance has submitted that the learned court below had taken the cognizance in a mechanical manner without there being any application of judicial mind. He has further submitted that the weights and measures, for which the complaint has been instituted, were for the internal use of Bhowra Colliery having no commercial transaction and as such section 24 of the Act has no applicability. In this context, he has referred to a judgment of the Hon"ble Patna High Court delivered in C.W.J.C. No. 6242 of 1988.

6. Learned counsel for the State, on the other hand, has submitted that on inspection, violations were found with respect to the provisions of the Act and accordingly learned Chief Judicial Magistrate did not commit any illegality in taking cognizance under section 47 of the said Act.

7. After hearing learned counsel for the parties and after going through the records, it is to be seen as to whether there has been any violation so as to prosecute the petitioner for the offence punishable under section 47 of the Act.

8. Section 47 of the Standards of Weights and Measures (Enforcement) Act, 1985 reads as follows:--

"47. Penalty for contravention of section 24.--Whoever, being required by section 24 to present any weight or measure for verification or re-verification, omits or fails, without any reasonable cause to do so, shall be punished with fine which may extend to five hundred rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. 9. Since section 47 is a penal provision for violation of the provisions of section 24 of the Act, it would be necessary to refer to section 24 of the Act.

10. Section 24 of the Standards of Weights and Measures (Enforcement) Act, 1985 reads as follows:--

"24. Verification and stamping of weights or measures.--(1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or likely to be, used by him in any transaction or for industrial production or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf (hereinafter referred to as the specified place or specified time), on payment of such fees as may be prescribed.

(2) Every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed.

Explanation.--For the removal of doubts it is hereby declared that no periodical re-verification shall be necessary in relation to any weight or measure which is used exclusively for domestic purposes.

(3) Every inspector shall, for the purpose of verification of any weight or

measure attend the specified place (with the local limit of his jurisdiction) at the specified time and verify every weight or measure which is brought to him at such place and within such time and shall, if he is satisfied that such weight or measure conforms to the standards established by or under the Standards Act, put his stamp thereon;

Provided that where any weight or measure is such that it cannot, or should not, be moved from its location, the Inspector shall take such steps for the verification of such weight or measure at the place of its location as may be prescribed. (4) Where any verification has been made under sub-section (3) the Inspector shall grant to the person referred to in Sub-section (1) a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.

(5) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable or practicable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Standards Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act on the date on which such certificate was issued.

(6) Every certificate referred to in sub-section (5) shall be in such form as may be prescribed and shall contain such details as to enable a clear identification of the weight or measure to which it relates."

11. The order referred to by learned counsel for the petitioner passed in CWJC No. 6242 of 1988 has considered a similar question as to whether section 24 of the Act will extend to a petrol pump with underground tank and fittings installed at a colliery and whether it was incumbent upon the colliery under law to get the petrol/HSD pump installed in the premises duly verified and stamped even though the entire supply is consumed by the colliery internally and no amount of petrol/HSD is sold to any third party. The Hon"ble Court while considering the aforesaid question had interpreted the terms protection, transaction and industrial production by referring to section 2(J) of the Act and section 2(2) of the Standards of Weights and Measures Act, 1976 (since repealed) and construing an interpretation with respect to industrial production. The Hon"ble Court, thus, on consideration of the entire aspect of the matter had come to a finding that section 24 thus envisages control of weights and measure over materials which go directly as in-puts in an industrial production; in other words, the materials forming the ingredients of the industrial produce. In appropriate cases the provision of section 24 may perhaps be extended even to cover materials which are used as catalysts or re-agents in an industrial production. But in all cases the control under section 24 of the Enforcement Act will be aimed at ensuring the fullness and completeness of the industrial produce.

12. In the present case also, nowhere it has been stated either in the complaint petition or by way of filing a counter affidavit that the re verification of the weights and measures as found by the opposite party No. 2 was required to be done as the same was to be used in any transaction or for industrial production or for protection. The use of the weights and measures in the colliery premises as per the averments made by the petitioner was exclusively in relation to the store material for maintenance of the records of the company and the same being used internally without there being any sort of transaction so as to attract the provisions of section 24 of the Act. The explanation to section 24 also specifically lays down that for removal of doubts, it is hereby declared that no periodical re-verification shall be necessary in relation to any weight or measure which is used exclusively for domestic purposes. Since the averments of the petitioner that there was no transaction with respect to the weights and measures as the same was not being used for any commercial transaction rather the same was for domestic purposes, as in terms of explanation to section 24 of the Act, there was no necessity for getting the weights and measures revived, which fact has also not been controverted by the State.

13. After considering the entire aspects of the matter and based on the discussions made, hereinabove, this application is allowed. The entire criminal proceedings including the order dated 30.5.2001, passed by learned Chief Judicial Magistrate, Dhanbad in W.M. Case No. 497 of 2001, by which cognizance for the offence under section 47 of the Standards of Weights and Measures (Enforcement) Act, 1985 has been taken against the petitioner, are hereby quashed.