

(2005) 01 PAT CK 0058

In the Patna High Court

Case No : Criminal Miscellaneous No. 28356 of 2002

Rajesh Kumar Mittal

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 18-01-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Forest Act, 1927 — Section 41, 42

Penal Code, 1860 (IPC) — Section 414

Citation : (2005) 1 BLJR 212 : (2005) 1 PLJR 624

Hon'ble Judges : P.K. Sinha, J

Bench : Single Bench

Advocate : B.K. Sinha, for the Appellant; Addl. P.P., for the Respondent

Final Decision : Dismissed

Judgement

P.K. Sinha, J.—This is an application u/s 482 of the Code of Criminal Procedure praying therein to quash the entire criminal proceeding arising out of Jehanabad P.S. Case No. 417 of 2001, corresponding to G.R. No. 1948 of 2001, registered u/s 414 of the Indian Penal Code, and under Sections 41 and 42 of the Indian Forest Act, as also order dated 8.8.2002 recorded by the learned Chief Judicial Magistrate, Jehanabad by which cognizance of offence was taken.

2. The allegation, in brief, is that forest produce including wooden logs in large number were seized by the official loaded on a truck of which the petitioner was subsequently found to be the owner. The driver had fled away and since no document could be found on the truck, the truck and forest produce were seized. Learned counsel submits that from the case diary it would appear that subsequently different claimants came before the Lower Court claiming to be the purchasers of the forest produces loaded on the truck, submitting receipts and the learned Chief Judicial Magistrate, Jehanabad ordered for release of those goods in their favour, on bonds, which was done. It was submitted that the case diary would show that the Police Officer had verified those receipts from the

trader said to have issued those receipts after purchases, and found those entries in the register kept at that trade place.

3. Learned counsel also submitted that in view of such evidence the police had submitted final report in the case but the learned Chief Judicial Magistrate, on perusal of the case diary, found a prima facie case having been made out under the Penal Code, as well under the Indian Forest Act, as aforesaid, and took cognizance of offence.

4. In this case, case-diary was also called. On going through the case diary learned Additional Public Prosecution submitted that a number of persons had come to the lower Court claiming to be the owners of the seized articles and those articles, said to be forest produce, were released in their favour. Learned Addl. P.P. also pointed out that paragraph 46 of the case diary mentions that purchases were verified.

5. However, learned Addl. P.P. also submitted that the same Subdivisional Police Officer who in his earlier supervision note had found the charges to be true, in his subsequent note found the petitioner to be innocent. It was also pointed out that the date of occurrence was 6.11.2001 but despite the truck and the aforesaid articles having been seized for a long period, it was on 23.11.2001 and thereafter that different people came claiming ownership by producing receipts. In paragraph 62 of the case diary the order of the Superintendent of Police was noted who also had noticed that accused side had produced the papers after much delay and it could not be ruled out that those documents were manufactured after the case was instituted. The Superintendent of Police noted that the conduct of the accused was doubtful. However, he ordered that final report be submitted suspecting the accused persons.

6. Besides this learned Addl. P.P. also submitted that u/s 41 of the Indian Forest Act, 1927 a power was vested in the State Government to make rules to regulate the transit of the timbers and other forest produce which Rules were framed, being "Bihar Timber and other Forest Produce Transit Rules, 1973". The learned Addl. P.P. submitted that the owner of the vehicle would be prima facie liable for violation of the Rules. In a Division Bench decision of this Court, relied upon by the learned Additional Public Prosecutor, in the case of Ranchi Timber Traders Association and Others Vs. State of Bihar and Others, their lordships rejected the submission that the transit rules framed under the provisions of Forest Act, were applicable only in cases of Government Forest and held that these rules had application even to the transit of Timbers or forest produce grown on or collected from the private properties.

7. Whether or not the receipts as were produced by different claimants relating to the seized forest produce were genuine or could be relied upon, can be assessed only after the evidence has come on the record. In that view of the matter as also in view of the submissions made by the learned Additional Public Prosecutor which I find to be having substance, I am not inclined to interfere

with the impugned order, or to allow the prayer as made in the petition.

8. It is made clear that arguments noticed and observations made only for the purpose of deciding the matter in hand which will not have any bearing upon the trial of the accused persons, which will proceed in accordance with law.

8. This petition, therefore, stands dismissed.