
(2006) 04 JH CK 0032
In the Jharkhand High Court

Rajesh Kumar Singh

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 05-04-2006

Acts Referred:

Forest Act, 1927 — Section 33, 41, 42

Citation : (2006) CriLJ 4526 : (2006) 2 EastCriC 522 : (2006) 4 CurCriR 150 :
(2006) 44 AllIndCas 290 : (2006) 3 AIRJharR 438

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard Mr. Tiwart, learned Counsel appearing for the petitioner and Mr.Mishra, learned G.P.-II of the respondents.

2. In the present writ application, the petitioner has prayed for quashing of the entire criminal proceeding being case No. C 3-36/2001, instituted on the basis of an offence report lodged by the Forest Officials against the petitioner, who is the Divisional Railway Manager and three others namely, the Train Driver, Bogy Conductor and Train Guard for the alleged commission of the offence under Sections 33, 41 and 42 of the Indian Forest Act (Bihar Amendment Act, 1989).

3. It appears that earlier several cases were lodged by the State Forest Officials against Railway Officials for the alleged commission of the offences under the Forest Act in allowing the illegal transportation of the Forest wood. The Railway authorities challenged the action of the State Forest Officials instituting criminal cases against their authorities by filing several writ petitions before this Court being W.P.C. Nos. 4162/ 2001, 4163/2001, 4164/2001, 4165/2001 and 4166/2001 and this Court after hearing the parties, by order dated 02/12/2002, as contained in Annexure-1 to this writ application, disposed of the aforesaid writ petitions in the manner indicated herein below. The operative portion of the order dated 02-12-2002 is quoted hereinbelow for ready reference:

In the facts and circumstances, I do not intend to give any finding relating to jurisdiction of the State Officials to initiate proceeding. However, they will sort out the dispute and will drop the present proceeding in question against the railway. In future, if it comes to the notice of the State Forest Officials that any railway employee allowed any unauthorized passenger to carry wood in train, they will bring the matter to the notice of the concerned D.R.M. for appropriate action against the railway employees, such as train driver, guard, T.T.E. The action may also be taken against G.R.P.F. of the State, if they do not cooperate (sic) to such illegal activities.

4. Mr. Tewari, learned Counsel appearing for the petitioner, by referring the aforesaid quoted portion of the order of this Court, submitted that pursuant to the said order, as contained in Annexure-1, if the railway employees, such as Train Driver, Guard, T.T.E. etc. were found to be involved in commission of the offence under the Forest Act then the matter should have been reported to the concerned Divisional Railway Manager (D.R.M.) but instead of doing that an offence report (Annexure-2) has been lodged against the Train Driver, Boggy Guard and Train Guard as well as against the Divisional Railway Manager. The action of the State Forest Officials is directly in contravention of the order of this Court passed in the aforesaid writ petitions. It is submitted that in fact the Divisional Railway Manager is not in any way involved in connection with the offence alleged in the offence report (Annexure-2) but even the allegations have been made against him also with a mala fide intention to harass and humiliate him.

5. Mr. Mishra, learned G.P.-II fairly submitted that pursuant to the order of this Court, contained in Annexure-1, if the Forest Officials were of the view that the Forest offence was being committed by the Railway authorities, i.e. by the Train Guard, T.T.E., Train Driver etc. then the matter should have been brought to the notice of the Divisional Railway Manager concerned and no case against the D.R.M. should have been lodged by the State Forest Officials.

6. Considering the facts and circumstances of the case, I am of the view that lodging of the offence report against the petitioner, who is none else than the Divisional Railway Manager of Chhakradharpur Division of South Eastern Railway, is absolutely illegal and mala fide and, therefore, continuance of the criminal proceeding for the prosecution of the petitioner certainly would be an abuse of the process of the Court.

7. Accordingly, this writ, application is allowed. The entire criminal prosecution against the petitioner only is hereby quashed.