

(2023) 01 JH CK 0024

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3263 Of 2021

Sanjay Saw

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 18-01-2023

Acts Referred:

Indian Forest Act, 1927 — Section 33, 42

Citation : (2023) 01 JH CK 0024

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Rajesh Kumar, Priya Shrestha

Final Decision : Dismissed

Judgement

Gautam Kumar Choudhary, J

1. Instant petition has been filed for quashing the order dated 08.09.2021 passed in Complaint Case No.62 of 2017 wherein cognizance has been taken for the offence under Sections 33, 42 of the Indian Forest Act against the petitioner.

2. The brief fact of the case is that on 16.02.2017, during course of patrolling, one truck was intercepted loaded with bauxite regarding which relevant document could not be produced as the driver fled away after the incidence. After enquiry, prosecution report dated 16.02.2017 was filed on the basis of which the cognizance has been taken by the impugned order.

3. The order taking cognizance has been assailed on two scores. Firstly, in the the petitioner had preferred confiscation appeal against the confiscation of the vehicle by the Forest Department. The Deputy Commissioner, Lohardaga allowed the appeal and set aside the order of confiscation, by recording a finding that it could not be proved that truck bearing registration No.JH08E-4896 was involved in illegal mining of bauxite. Second limb of argument is that if the prosecution report is read in its entirety, no offence will be made out in view of the fact the prosecution report itself states that the bauxite was being transported from the

quarry Serendag bauxite Mines, raising Contractor, Mahabir Bhagat, who had issued the quarries Challan stating that the vehicle had been carrying bauxite from its quarry. Reliance has been placed on State of Haryana Versus Bhajan Lal reported in 1992 Supp (1) SCC 335.

4. A counter affidavit has filed on behalf of the State. It is submitted by the learned A.P.P. that merely allowing the confiscation appeal cannot be a ground to set aside the criminal prosecution in view of ratio decided by Hon'ble the Supreme Court in 1986 AIR 328. The criminal case cannot be quashed simply for the reason that Confiscation Appeal of the petitioner has been allowed. The truck bearing registration no. JH-08E/4896 was intercepted by the patrolling party of the forest Department and was found loaded with eight tons of bauxite. The driver immediately fled away and no valid document was produced regarding transportation of the bauxite mineral consequently the truck was seized and the confiscation proceeding was initiated by competent authority. On notice being issued, owner of the truck appeared and produced the quarry challan issued by the lease holder HINDALCO.

5. The Forest Range Officer submitted a report vide letter No.14 dated 15.06.2017 about GPS location of the point from where illegal mining could have taken place. The General Manager, Mines Hindalco vide his letter No.359 dated 18.10.2017 informed that the contractors loading slip enclosed with the letter did not match with any of the document issued from their office and the slip was without signature. The loading slip is without verification by supervisory staff.

6. On the same date that is on 16.02.2017 on which the said truck was seized, another truck bearing registration No.BR 14 G0209 was also seized in similar situation. Hence, the letter from Divisional Forest Officer, Lohardaga was written to General Manager Hindalco. Inadvertently the report regarding truck No.JH-08E/4896 was not sent. As per the report of the Forest Officer and letter of General Manager, truck in question was involved in loading bauxite from forest area.

After having considered the rival submissions, this Court is of the view that this is not a fit case for invoking the inherent jurisdiction of this Court for quashing the criminal proceeding. There are materials to make out a prima facie case and at this stage the probative value of the materials cannot be scrutinized.

Criminal Miscellaneous Petition stands dismissed.