

(2003) 09 JH CK 0067

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1163 of 2002

Shiv Shambhu Hard Coke and Another

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 02-09-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2003) 4 JCR 385

Hon'ble Judges : Lakshman Uraon, J

Bench : Single Bench

Advocate : Prashant Kr. Singh, for the Appellant; APP, for the Respondent

Final Decision : Allowed

Judgement

Lakshman Uraon, J.—This is an application u/s 482, Cr PC to quash the entire criminal proceeding initiated against these petitioners in Jharia (Tisra) PS Case No. 321 of 2002 under Sections 467, 468, 471, 49, 420 and 120B of the Indian Penal Code pending in the Court of learned CJM, Dhanbad.

2. The prosecution case is based on the written information given by SI Jitendra Kr. Singh, OP Incharge, Dhanuadih PS. Tisra. District Dhanbad alleging that on 7.10.2002, on secret information regarding loading of steam coal in connivance of the management of Ghanodih colliery, DO holders and owners of the Bhatta and transports loaded steam coal on truck No. BER-7536 against the sale order/DO from the new loading point, Ghanodih colliery.

3. Learned counsel for the petitioners has submitted that the accused are innocent and have falsely been implicated in this case. The vehicle is a commercial truck equipped with all valid papers issued by BCCL in favour of M/s. Shiv Shambhu Hard Coke, Tundi, Road, Govindpur, Dhanbad. The DO was issued in the name of the said hard coke Bhatta for lifting the left out coal. A report was called for from Project Officer, SOM, Ghanodih colliery who in his letter dated

16/17.10.2002 addressed to the CJM, Dhanbad has informed that under the prevailing mining condition very often seized coal is being loaded by the machine and dumped for loading in the coal depot. Since there is no arrangement of screening and sizing of the coal, this ROM coal is loaded into the trucks selectively by manual loaders hired by the consumers. Since selective loading is done, the management is charging Rs. 150 extra/tonne of coal in addition of base price. As such there is no revenue loss to BCCL by doing selecting loading which is evident from price of coal mentioned therein. This fact was also considered by the learned Sessions Judge while allowing bail to co-accused Hamid Ansari. A report was also submitted by the O/C, Ghanodih OPC on 13th December, 2002, annexure 3 of supplementary affidavit, addressed to the CJM. Dhanbad. He has also informed that seized truck and coal loaded therein were found genuine after investigation by CFRI, Dhanbad. He informed that there is no objection in releasing the truck and the coal loaded therein.

4. The driver of the truck No. BER-7536 loaded with coal was Hamid Ansari and these petitioners are the owners of the truck. The allegation is that in collusion with owners, truck driver and Bhatta owners, the offence is being committed in lifting steam coal causing loss to the BCCL.

5. On perusal of the report of the Project Officer, Ghanodih colliery, report of the O/C, Ghanodih PS, it is clear that the coals were permitted by issuing DO which was being loaded by manual labourers at the cost of the consumers hired by themselves, extra charges were being charged @ Rs. 150/- per tone in addition to the price. Hence, as per information given by the Project Officer, Ghanodih colliery, the price of both the coals, i.e. steam coal and the ROM coal are the same which were loaded in truck No. BER-7536. BCCL sustained no loss and the case registered against these petitioners and others seems to be due to mistake of fact.

6. Considering this fact, I find merit in this Cr. Misc. Petition which is allowed and the impugned order, under challenge, is quashed including the criminal proceeding in Jharia (Tisra) PS Case No. 321 of 2002 under Sections 467, 468, 471, 49, 420 and 120B of the Indian Penal Code pending in the Court of learned CJM, Dhanbad.