
(2011) 07 JH CK 0250
In the Jharkhand High Court
Case No : Criminal M.P. No. 1035 of 2007

Shivkumar

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 468(2), 473
Electricity Act, 1910 — Section 39, 44
Penal Code, 1860 (IPC) — Section 379

Citation : (2011) 4 JCR 124

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.K. Sinha, J.—The petitioner has invoked the inherent jurisdiction (sic) this Court for quashment of his entire criminal prosecution relating to Gamharia P.S. Case No. 61/99. corresponding to G.R. No. 584/ 99 including the cognizance order dated 3.11.2003 by which cognizance of the offence was taken u/s 379 of the Indian Penal Code as also under Sections 39/44 of the Indian Electricity Act, 1910, now pending in the Court of S.D.J.M., Saraikela.

2. Heard Mr. A.K. Das, the learned counsel appearing on behalf of the petitioner. Mr. V.K. Prasad, the learned counsel appearing on behalf of the JSEB and Mr. Shekhar Sinha, the learned A. P. P. appearing on behalf of the State.

3. Learned counsel Mr. Das, at the outset, submitted by raising the point of law that FIR against the petitioner was lodged on 3.12.1999 for the said offences but the Investigating Officer after investigation submitted charge-sheet on 30.9.2003 and the cognizance was taken by the CJM, Saraikela on 3.11.2003 i.e. beyond three years. Punishment prescribed for the alleged offence u/s 379 of the Indian Penal Code is three years and similarly, punishment under the special law i.e. Indian Electricity Act is also three years and therefore, the cognizance of the offence beyond three years is barred u/s 468(2)(c) of the Code of Criminal

Procedure.

4. Attracting the attention of this Court, Mr. Das submitted that it would be evident from the cognizance order dated 3.11 2003 that the CJM, Saraikela while taking cognizance of the offence had not exercised his jurisdiction u/s 473 of the Code of Criminal Procedure in condoning the delay beyond the period of limitation of three years and therefore, criminal prosecution of the petitioner is barred by Section 468(2) (c) of the Code and the same is liable to be set aside.

5. Mr. V.K. Prasad, the learned counsel appearing on behalf of the JSEB submits that the opposite party-JSEB may not be precluded from taking alternative recourse under prevalent special law.

6. In the facts and circumstances. I find that the criminal prosecution of the petitioner in G.R. No. 584/99, arising out of Camharia P.S. Case No. 61/99 is not maintainable since barred by limitation. Accordingly, the same is quashed and this petition is allowed.