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**(2012) 08 JH CK 0163**  
**In the Jharkhand High Court**  
**Case No : Criminal M.P. No. 14 of 2004**

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| Smt. Rani Singh and Another        | Vs | APPELLANT  |
| The State of Jharkhand and Another |    | RESPONDENT |

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**Date of Decision :** 02-08-2012

**Acts Referred:**

Minimum Wages Act, 1948 — Section 22A, 22C

**Citation :** (2012) 4 JLJR 34

**Hon'ble Judges :** Rakesh Ranjan Prasad, J

**Bench :** Single Bench

**Advocate :** Rana Pratap Singh, V.P. Singh, for the Appellant; Rashmi Kumar, for the Respondent

**Final Decision :** Allowed

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## Judgement

R.R. Prasad, J.—Heard the parties. This application has been filed for quashing of the entire criminal proceeding of Complaint Case No. C/2-1749 of 2002 including order dated 29.7.2002 whereby and whereunder, cognizance of the offence punishable u/s 22A of the Minimum Wages Act, 1948 has been taken against the petitioners.

2. It is the case of the complainant that the complainant-Labour Superintendent & Inspector, Jamshedpur made inspection of a School known as Asha Kiran School, Telco, Jamshedpur on 6.7.2002. In that course, it was found that several registers, which were supposed to be maintained under different provisions of the Minimum Wages Act, 1948 or the Rules, have not been maintained and, therefore, a complaint was lodged which was registered as Complaint Case No. C/2-1749 of 2002 against the said School as well as against these two petitioners.

3. On filing such complaint, cognizance was taken by the court of the offence punishable u/s 22A of the Minimum Wages Act against these petitioners as well as against the School vide its order dated 29.7.2002. That order is under

challenge.

4. Mr. Rana Pratap Singh, learned Senior Counsel appearing for the petitioners, submits that petitioner no. 1, a Social Worker, elected at that time as President of All India Women Conference, Telco, Jamshedpur, had nothing to do with day to day affairs of the business of the School and similarly petitioner no. 2, Principal of the said School, engaged in teaching work, had also nothing to do with the other affairs relating to its business of the said School, which is being run and maintained by All India Women Conference, Golmuri, a Social Organization, engaged in mainly helping destitute women/ladies, widows their children and the school is being run for the disabled orphan and handicap. In such event, the prosecution against the petitioners cannot be maintained and hence the order taking cognizance is fit to be set aside.

5. A counter affidavit has been filed wherein the allegation which was there in the complaint has been reiterated but it has not been denied that the petitioners had no concerned with day to day affairs of the business of the School.

6. In context of the submission, one needs to take notice of Section 22C of the Minimum Wages Act, 1948.

22C. Offences by companies.--If the person committing any offence under this Act is a company, every person who at the time the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

7. From perusal of the aforesaid provision, it does appear that if the offence is committed by the Company then every person, who at the time of offence was the In-charge of, or was responsible for the conduct of the business of the Company, shall be deemed to be guilty of the offence. Therefore, apart from the company the other person is also liable to be prosecuted provided that person is responsible for and In-charge of, day to day conduct of the business of the Company.

8. Here the complaint is absolutely silent on this point that the petitioners were

In-charge of day to day conduct of the business of the said School.

9. Hence, entire criminal proceeding of Complaint Case No. C/2-749 of 2002 including order dated 29.7.2002 under which cognizance has been taken against these petitioners u/s 22A of the Minimum Wages Act, is hereby quashed so far these petitioners are concerned. In the result, this application is allowed.