
(2012) 08 JH CK 0082
In the Jharkhand High Court
Case No : Criminal M.P. No. 13 of 2004

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

Date of Decision : 02-08-2012

Acts Referred:

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

Citation : (2013) 1 AJR 642 : (2012) 4 JLJR 239

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Rana Pratap Singh, V.P. Singh, for the Appellant; S. Mahto for the State, for the Respondent

Final Decision : Allowed

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/2-1747 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 petitioner who at relevant point of time was the President of All India Women Conference, Telco, Jamshedpur.

2. It is the case of the complainant that the complainant-Labour Superintendent & Inspector, Jamshedpur made inspection in the premises of M/s All India Women Conference, Telco, Jamshedpur and found number of irregularities with respect to maintenance of different registers supposed to be maintained under the Minimum Wages Act, 1948 or the Rules.

3. On such allegation, a complaint was lodged which was registered as Complaint Case No. C/2-1747 of 2002. The court on 29.7.2002 took cognizance of the offence punishable u/s 22A of the Minimum Wages Act. That order is under challenge.

4. Mr. Rana Pratap Singh, learned Senior Counsel appearing for the petitioner,

submits that on the allegation of non-maintenance of different registers, a complaint was lodged against the Association as well as against the petitioner, who at relevant point of time was the President, but there has been absolutely no allegation that the petitioner was the In-charge of or responsible for day to day affairs of the business of the Association. In such event, the prosecution against the petitioner cannot be maintained and hence the order taking cognizance is fit to be set aside.

5. Though a counter affidavit has been filed but the statement made on behalf of the petitioner that the petitioner was never the In-charge of or responsible for day to day affairs of the Company, has never been denied.

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 petitioner was In-charge of day to day conduct of the business of the company.

9. Hence, entire criminal proceeding of Complaint Case No. C/2-1747 of 2002 including order dated 29.7.2002 under which cognizance has been taken against the petitioner u/s 22A of the Minimum Wages Act, is hereby quashed so far this petitioner is concerned. In the result, this application is allowed.