
(2008) 07 JH CK 0090
In the Jharkhand High Court

State of Bihar

APPELLANT

Vs

Ghasi Ram Mahto and Others

RESPONDENT

Date of Decision : 03-07-2008

Acts Referred:

Forest (Conservation) Act, 1980 — Section 2
Forest Act, 1927 — Section 41, 42

Citation : (2008) 3 JCR 466

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—This State has preferred this appeal against the judgment passed by the Judicial Magistrate, 1st Class, Khunti, in Case No. F 32 of 1997 (TR No. 276 of 1999) acquitting the respondent Nos. 1 to 4 from the charges for the offences under Sections 41 and 42 of the Indian Forest Act and Section 2 of the Forest Conservation Act, for which they were tried.

2. Heard the counsel for the appellant and the counsel for the respondents.

3. Facts of the case in brief is that a truck which was driven by the appellant No. 2 was stopped at the check post. On search and inspection by the officials of the Forest Department, it was found that 19 pieces of logs of semul tree were loaded on the truck. The driver, respondent No. 2 produced, on demand, the road permit/road challan and on perusal of the papers, it transpired that it was issued by a saw mill for transportation of logs of mango trees. On the basis of the discrepancy and on the belief that the driver in connivance with other respondents was illegally transporting forest woods without proper permit, a complaint was lodged against them for the offences aforementioned.

4. The defence of the accused persons, namely the respondent Nos. 2 to 4. was that the entire case of the prosecution was misconceived since the logs actually corresponded to the description of the wood mentioned in the road permit and

even otherwise, no offence whatsoever under the provisions of the Forest Act or Forest Conservation Act is made out.

5. The trial Court after considering the evidences, recorded its observation that in view of the prosecution's own admission that the road permit was genuine and logs of woods were genuinely lifted from the saw mill for transportation, the offences for which accused were put on trial are not made out.

6. Assailing the impugned judgment of the Court below, learned Counsel for the appellant submits that the finding of the trial Court is misconceived and is against the weight of evidence on record. Learned Counsel explains that the Court below ought to have considered that though the road challan mentioned that the road permit was issued for transporting logs of mango tree, but the seized material found on the truck did not correspond to the description of the wood mentioned in the road challan and thus an obvious inference was that on the basis of the road permit, the accused persons/respondents were illegally transporting forest woods. On the other hand, learned Counsel for the respondent Nos. 2 to 4, while supporting the judgment of the Court below, explains that the entire case is misconceived and even from the evidence of the two witnesses examined by the prosecution, it is evident that the logs were in fact lifted from the saw mill and not from the forest area and further more, there was a valid road permit for transporting the logs of woods which was seized in the case. It is further explained that the truck belonging to the appellant No. 1 was seized and a confiscation proceeding was initiated but eventually on considering the fact that no offence was made out in the facts and circumstances of the case, the confiscation proceeding was dropped and subsequently, the truck was released in favour of the owner i.e. respondent No. 1, and the trial has considered all these aspects and has rightly recorded its findings holding the respondents not guilty.

7. On going through the judgment of the Court below, I find that the Court below has considered the evidence of the two witnesses adduced by the prosecution and after discussing and analyzing the same and reading the evidence on record together with the facts and circumstances of the case, has recorded its finding in favour of the respondents in respect of the charges framed against them. As pointed out by the learned Counsel for the respondents, the trial Court has also taken into consideration the admitted fact that though the truck was seized along with the logs of woods loaded on the truck, and a confiscation proceeding was initiated, but it was dropped on the ground that no offence was made on the basis of the alleged facts against the respondents and further more the seized materials were returned to the respondents. It also appears from the impugned judgment of the Court below, that respondent Nos. 1, 3 and 4 were made accused merely on suspicion on the ground that they were prospective purchasers of the woods transported on the truck, but no definite incriminating evidence was led against the respondent Nos. 1, 3 and 4.

8. In view of the above discussion, I do not find any merit in this appeal.

Accordingly, this appeal is dismissed. The impugned judgment of the trial Court is sustained and confirmed.

9. Learned Counsel for the appellant points, out that some adverse remarks have been passed in the impugned judgment by the trial Court against the informant of the case. Inviting attention to the concluding paragraph in the judgment, learned Counsel submits that the observations in the concluding paragraph of the informant and the investigating officer for illegal seizure of the logs of wood and for conducting improper investigation and filing of prosecution report. Learned Counsel explains that the facts and circumstances would amply demonstrate that the informant and the investigating officer were merely performing their official duties and seizure of the truck was made on suspicion created on account of the discrepancy in the road permit that the logs seized from the truck was forest wood and was being illegally transported. There was no mala fide intention on the part of the officers in making seizure of the truck along with logs and in the filing of complaint against the respondents and in this view of the matter, the informant and the investigating officer did not deserve such strictures. It is further submitted that even otherwise, there is no reasonable basis for passing strictures against the public officers.

10. It does appear from the facts and circumstances of the case that since there was apparent discrepancy in the road permit and nature of woods seized from the truck, it offered reasonable basis for suspecting that forest wood was being illegally transported by accused persons and there fore the cause for their prosecution. It is a different mater altogether that in course of trial, the offence for which the prosecution was launched, could not be made out against the accused persons. The strictures and observations recorded by the trial Court in the impugned judgment is not based on proper grounds and is, in fact, not relevant in the case.

Under such circumstances, it is appropriate that adverse remarks and strictures as appearing in the last paragraph of the impugned judgment of the trial Court recorded against the complainant forest officer and the prosecutor be expunged. Accordingly, the last paragraph wherein the trial Court recorded adverse observations against the conduct of the forest guard and the prosecuting officer and has suggested legal action against them, is hereby expunged.