
(2010) 08 PAT CK 0091

In the Patna High Court

Case No : Criminal Miscellaneous No. 9308 of 2001

Surendra Prasad Singh, Working as Manager (Administration)
Pyrites Phosphates and Chemicals Ltd.

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 16-08-2010

Acts Referred:

Forest Act, 1927 — Section 33, 41, 42

Citation : (2011) 1 PLJR 129

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Judgement

Rakesh Kumar, J.

1.Three Petitioners, who are officers of a Government of India Undertaking namely, Pyrites Phosphates and Chemicals Ltd. "(hereinafter referred to as P.P.C.L.) are before this Court, while invoking inherent jurisdiction with a prayer to quash an order dated 14.12.2000 passed by the Chief Judicial Magistrate, Rohtas at Sasaram. By the said order, the learned Magistrate has taken cognizance of offence under Sections 33, 41 and 42 of the Forest Act.

2. Short fact of the case is that a written report was submitted by one Sri Ravi Shankar Rai, Forest Guard to the Forest Range Officer, Tilouthu disclosing therein that on 29.8.1998 at about 5.00 P.M., while he was moving in Kachchawar restricted forest, he witnessed that some labourers were un-loading waste minerals from Truck and Tractor. He tried to restrain them. However, they disclosed that they were working as Labourers in P.P.C.L. and they un-loaded the waste minerals. It was disclosed that due to such un-loading, about four acres land of the forest was destroyed. Subsequently, an offence report (prosecution report) was submitted in the court of learned Chief Judicial Magistrate in which the Petitioners were named as accused persons. After submission of the offence report, the learned Chief Judicial Magistrate, by an order dated 14.12.2000, took cognizance of offence under Sections 33, 41 and 42 of the Forest Act and

directed for summoning the Petitioners.

3. Md. Faiz Ahmad, learned Counsel appearing on behalf of the Petitioners, while challenging the impugned order, submits that Forest Guard, in its report, had not even whispered about the name of the persons, who were un-loading waste minerals nor he was bothered to mention registration number of either Truck or Tractor. It was further submitted that since the Petitioners were senior officers in P.P.C.L. i.e. Petitioner Nos. 1, 2 and 3 were working as Manager (Administration), Executive Director, Mines and Manager respectively they have been made accused without any cogent reason. It was further submitted that in absence of any materials on record even whispering against the Petitioner save and except naming them in the offence report, the learned Magistrate was not required to proceed with the case by way of taking cognizance against the Petitioners. On the ground of absence of any material, it has been prayed that order of cognizance may be set aside.

4. Shri Hirday Prasad Singh, learned Additional Public Prosecutor, appearing on behalf of the State, has opposed the prayer of the Petitioners. It was submitted on the basis of prosecution report that due to omission or commission of the accused persons, the Forest Department had suffered a loss of about Rs. 50,000/-. However, he was not in a position to inform the court as to how the name of Petitioners were incorporated in the prosecution report whereas the Forest Guard, in its report, had not mentioned even name of the worker or registration number of the vehicle in question.

5. Besides hearing learned Counsel for the parties, I have also perused the materials available on record. The Petitioners were officers in the P.P.C.L., which is a Government of India Undertaking running under the Administrative Control of Ministry of Fertilizer and Chemicals, Department of Fertilizer. On the basis of materials available on record, the court is unable to understand that under what circumstances, the name of Petitioners were incorporated in the prosecution report. Nothing was disclosed in the report, which is the basis of initiation of the prosecution i.e. report of the Forest Guard. Only one thing was mentioned in the report dated 29.8.1999 that from Truck and Tractor waste minerals were being un-loaded and on enquiry, the persons, who were unloading, disclosed that they were Labourers of the P.P.C.L. Except that nothing was indicated.

6. Moreover, the matter remained pending before this Court for quite a long time and as such at this stage, in view of materials available on record, the court considers that it would not be appropriate to direct the Petitioners to participate in the criminal proceeding before the court below and as such for the ends of justice, it is necessary to interfere with the impugned order of cognizance and order of cognizance dated 14.12.2000 passed by the Chief Judicial Magistrate in Forest Case No. 211 of 2000 is hereby set aside and petition stands allowed.