

(2016) 11 JH CK 0038
In the Jharkhand High Court
Case No : L.P.A. No. 51 of 2016

Union of India

APPELLANT

Vs

P.K. Chakraborty

RESPONDENT

Date of Decision : 16-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226, Article 311

Citation : (2017) 1 JLJR 638

Hon'ble Judges : Mr Pradip Kumar Mohanty, A.J.C. and Mr. Ananda Sen, J.

Bench : Division Bench

Advocate : Mr. Prashant Vidyarthi, Advocate, for the Appellant; Mr. K.P. Deo, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Mr. Prashant Vidyarthi, learned counsel for the appellants and Mr. K.P. Deo, learned counsel for the respondent in details and we have perused the entire record.

2. Learned counsel for the appellants has submitted that there is illegality and irregularity committed by the learned Single Judge in passing the impugned judgment and order dated 22.05.2015 in W.P.(S) No. 4734 of 2012. He has further submitted that the learned Single Judge has not considered the fact that the respondent was involved in a conspiracy with one Sarita Das of CISF Unit Lilabari Airport in getting one C.L. Ganjir involved in the alleged charge of misconduct. He has further submitted that the respondent had made 53 calls to the said Sarita Das, CISF personnels and had also received 28 calls on reply, but the learned Single Judge has not considered this conspiracy part of the respondent and has passed the impugned judgment dated 22.05.2015 and quashed the order dated 18.06.2012 contained in Annexure-8 to the writ petition (W.P.(S) No. 4734 of 2012).

3. From Perusal of the judgment passed in W.P.(S) No. 4734 of 2012, it reveals

that no conspiracy part has been proved against the respondent in departmental proceeding. It has come in the departmental proceeding that only 82 calls were made/received by the respondent to different mobiles including the mobile of Sarita Das. This is the only material against the respondent.

4. From the above facts, it cannot be presumed that the complaint was made by Sarita Das, CISF personnel against one C.L. Ganjir in conspiracy with the respondent. In the Departmental Proceeding charges were framed against the respondent is that of gross misconduct in getting a complaint lodged against one C.L. Ganjir by Sarita Das, CISF personnel. By mere producing evidence of 82 telephone calls will not substantiate that the respondent was involved in conspiracy and, thus, he has committed any misconduct. There is no substantive evidence against the respondent to show that he had hatched a conspiracy with one Sarita Das to involve one C.L. Ganjir for committing misconduct. Mere exchange of telephone calls in the background of relationship, which the respondent was sharing with lady constable Sarita Das and her family including her husband cannot be construed to mean that a conspiracy was being hatched to malign C.L. Ganjir. It may be noted that C.L. Ganjir was punished in the departmental proceeding arising out of the complaint filed by Mrs. Sarita Das. In that proceeding there was no whisper about any alleged conspiracy. Only after Mr. C.L. Ganjir was punished, he came up with this conspiracy theory.

5. In view of the above discussions, there is no illegality and irregularity committed by the learned Single Judge in passing the impugned order dated 22.05.2015 in W.P.(S) No. 4734 of 2012 and, as such, the judgment passed by the learned Single Judge is just and proper, which needs no interference. This Court is not inclined to interfere with the impugned order dated 22.05.2015 passed by the learned Single Judge in W.P.(S) No. 4734 of 2012.

6. This L.P.A. is, accordingly, dismissed.