(2025) 10 OH CK 0029

Orissa HC

Case No: CRLMC No. 3627 Of 2010

Ranjan Kumar Das @ Tiki		APPELLANT
	Vs	
State Of Orissa And Another		RESPONDENT

Date of Decision: Oct. 24, 2025

Acts Referred:

- Indian Penal Code, 1860 — Section 120B, 379, 407, 408, 411, 420, 468, 471
- Code Of Criminal Procedure 1973 — Section 319, 482

Hon'ble Judges: Chittaranjan Dash, J

Bench: Single Bench

Advocate: S. Pradhan, A. K. Apat

Final Decision: Allowed

Judgement

Chittaranjan Dash, J

1. By means of this application, the Petitioner seeks quashing of the charge-sheet, the order of cognizance dated 25.10.2010, and the issuance of process against him in connection with Paradeep Marine P.S. Case No. 26 of 2010, corresponding to G.R. Case No. 570 of 2010, pending before the learned J.M.F.C. (P), Kujanga.

2. The background facts of the case are that an integrated Steel Plant is situated at village Kuarmunda in the district of Sundargarh. The said plant has a Coke Oven Unit for manufacturing LAM Coke, which is used in its Blast Furnace. Coking Coal, the raw material for this process, used to be imported by the Company from BHP, Australia. The imported coal was received at Paradeep Port by vessel and thereafter transported to the Steel Plant at Kuarmunda through railway rakes or by road transport.

M/s. Doyen International, having its office at D/3, Shreemandir Complex, Badapadia, Paradeep Port, had been engaged as the transporter for carriage of the aforesaid material to the site at Kuarmunda, Sundargarh since September 2009. One Uma Shankar Mohanty, Proprietor of the said firm, along with some associates, was transporting coal from the transit plot at Paradeep Port to the Steel Plant of M/s. Adhunik Metaliks Ltd. i.e. Opposite Party No.2 at Kuarmunda, Sundargarh. The records relating to ingress and egress of trucks carrying the materials to the site were maintained by the CISF authorities, the nominated Weighbridge

(T.M. Logistics Ltd.), and the Port Gate Pass authorities. One Ajay Gupta had been engaged as Branch Head of M/s. Adhunik Metaliks Ltd. at Paradeep since March 2008. Similarly, Sudhanya Samanta, Sapan Nandi, and Vijay Dutta were engaged as Supervisors to assist Mr. Gupta.

3. During the course of an internal audit, a discrepancy in stock of materials was detected between the records maintained at the Branch Office, Paradeep, and those of the Gate Pass and Issue Section Authority of Paradeep Port (CISF). From the records, it was revealed that the movement of trucks between March 2010 and August 2010 did not tally, and about 190 trucks loaded with Coking Coal had been diverted and misappropriated en route by the transporter in connivance and conspiracy with employees of M/s. Adhunik Metaliks Ltd., including its Branch Head at Paradeep and others who purchased the stolen coal. Ajay Gupta and the said Supervisors were summoned to the Corporate Office at Kolkata, where they failed to reconcile the discrepancies and voluntarily admitted that they had committed theft of Coking Coal in conspiracy with the transporter and others stationed at Chandikhol, who had received the stolen material. The value of the misappropriated coal was estimated at approximately ■3.5 crore, thereby causing wrongful loss to M/s. Adhunik Metaliks Ltd. and corresponding wrongful gain to the accused persons by using forged documents as genuine.

4. On the basis of an F.I.R. lodged to that effect, investigation was undertaken. During investigation, the officials of M/s. Adhunik Metaliks Ltd. were examined, and they categorically stated that M/s. Doyen International was the transporting agent, with Uma Shankar Mohanty as its Proprietor and Kedar Jena as his partner. The employees of M/s. Adhunik Metaliks Ltd., namely Ajay Gupta, Sudhanya Samanta, Bijay Dutta, and Sapan Nandi, admitted that they had conspired with the transporter, Doyen International, through its Proprietor Uma Shankar Mohanty and partner Kedar Jena, besides one Pani Babu of Kujanga, and purchasers of the stolen coal, namely Ashok Agrawal and Mr. Sharma, along with Dilu Babu, in diverting the Coking Coal from Manguli Chhak to the private plots of Ashok Agrawal and Mr. Sharma for sale. It was further admitted by the said officials that the sale proceeds of the stolen coal were proportionately distributed among the accused persons and certain officials, part of which was deposited in their respective bank accounts, and part was invested in Kisan Vikas Patra, and the rest was spent otherwise.

5. During investigation, other persons connected with the crime, such as Akshaya Sutar, Branch Head of the Stevedoring Agency ACE Commercial, were also examined. Two bank accounts of M/s. Doyen International were traced, and upon verification of the relevant documents, it was found that Uma Shankar Mohanty and Petitioner-Ranjan Kumar Das were partners in M/s. Doyen International. Subsequently, the partnership was dissolved, and a Deed of Dissolution of Partnership was executed between Uma Shankar Mohanty and Petitioner-Ranjan Kumar Das on 26.02.2010.

Further, it was revealed during investigation that after the dissolution of partnership, amounts of ■2,00,000/- and ■3,00,000/- were withdrawn from the account of M/s. Doyen International on 06.03.2010 and 13.03.2010 respectively, through self-cheques issued by the present Petitioner.

Accordingly, the Investigating Officer found the present Petitioner also involved in the aforesaid offence and submitted Charge-Sheet No. 26 dated 20.10.2010 against them for the offences under Sections 407/408/420/471/468/379/411/120-B of the Indian Penal Code.

6. Mr. Pradhan, learned counsel for the Petitioner, while assailing the allegations mentioned in the charge-sheet, submitted inter alia that the present Petitioner and one Uma Shankar Mohanty were partners of M/s. Doyen International, the transporting company. However, the said firm was engaged in transportation work for various organisations and companies. From the year 2009, it had been engaged by M/s. Adhunik Metaliks Ltd. for transportation of Coking Coal from Paradeep Port to its factory at Kuarmunda in the district of Sundargarh. Mr. Pradhan further submits that according to the F.I.R., during the period between March 2010 and 6th August 2010, theft of Coking Coal allegedly took place in collusion with the transporter, certain officers of M/s. Adhunik Metaliks Ltd. posted at Paradeep, and the purchasers of the stolen coal at Chandikhole. The F.I.R. further reveals that the partnership between Uma Shankar Mohanty and Ranjan Kumar Das had been dissolved with effect from 26.02.2010, and that the firm maintained two joint accounts in the name of M/s. Doyen International, which could be operated either by

Uma Shankar Mohanty or by the present Petitioner. Learned counsel asserts that even assuming, for the sake of argument, that the Petitioner had withdrawn a total of ■5,00,000/- through two self-cheques from the account of M/s. Doyen International after dissolution of the partnership, such withdrawal by itself does not connect the Petitioner with the alleged offence, particularly when the principal accused, namely Ajay Gupta, the then Branch Head of M/s. Adhunik Metaliks Ltd., along with his three associates, has in his confessional statement categorically admitted his involvement in the theft of Coking Coal and named the persons who participated in the conspiracy, which does not include the present Petitioner.

Mr. Pradhan further contended that the F.I.R. was registered solely on the basis of the statements of Ajay Gupta and his associates, and as such, the Petitioner cannot be held to have been prima facie involved in the alleged theft of Coking Coal, especially when the names of those actually involved have been specifically disclosed by the principal-accused. It was, therefore, urged that there exists no prima facie material against the present Petitioner to implicate him in the alleged offence merely because certain amount was withdrawn by him through cheques, particularly when he had already ceased to be a partner of the firm prior to the period of the alleged commission of crime.

7. Mr. Apat, learned counsel for the State, on the other hand, opposed the prayer for quashing and contended that although the Petitioners had formally ceased to be partners of the firm, the business transactions of M/s. Doyen International with M/s. Adhunik Metaliks Ltd. had continued even after the date of dissolution. It was, therefore, submitted that the Petitioners cannot completely disassociate themselves from the activities of the firm, particularly when the alleged acts of diversion and misappropriation of Coking Coal occurred around the same period. Learned counsel argued that the withdrawals made by the Petitioners from the account of the firm after the dissolution indicate their continued involvement in the affairs of the firm and, therefore, their participation in the alleged conspiracy cannot be ruled out at this stage. Accordingly, it was contended that the question as to the extent of their complicity is a matter for trial and cannot be adjudicated in a proceeding under Section 482 Cr.P.C. Hence, the criminal proceeding, insofar as it concerns the Petitioners, cannot be quashed.

8. Having heard learned counsel for the parties and upon perusal of the materials on records, it is apposite to mention that an active participation in a crime implies a conscious and deliberate involvement in carrying out the criminal act. It requires more than mere presence at the scene of occurrence; it entails conduct in furtherance of the common intention, such as planning, instigating, aiding, or otherwise facilitating the commission of the offence.

Even moral support, when knowingly rendered through oneâ€™s presence with the intent to encourage or embolden the principal offender, may amount to active participation. Thus, a personâ€™s presence at the scene of crime, if intended to provide such support or encouragement, can legitimately be construed as active participation, even in the absence of any overt act or verbal expression.

9. In the case at hand, the name of the present Petitioner, admittedly, does not find place in the FIR. The entire allegation revolves around the statement of one Ajay Gupta, the Branch Head of M/s. Adhunik Metaliks Ltd., that had entered into an agreement with the transporter, M/s. Doyen International, for transportation of coking coal from its site at Paradeep to its factory at Kuarmunda in the district of Sundargarh. It is absolutely clear from the statement of the Branch Head that he, along with the Supervisors named therein, entered into a conspiracy with Umashankar Mohanty, the transporter, Kedar Jena, the partner of the transporter, and one Pani Babu of Kujanga, besides one Ashok Agrawal, Mr. Sharma, and Dilu Babu, who purchased the diverted coking coal. The manner in which the sale was effected and the sale proceeds were distributed has also been clearly spelt out in the said statement, and at no point does the name of the present Petitioner found mentioned. On the contrary, there is ample material to prima facie show that the Petitioner had ceased to be a partner of the firm with effect from 26.02.2010, whereas the alleged incident of theft took place between March 2010 and August 2010. Therefore, the Petitioner was admittedly not involved in the affairs of the partnership firm during the relevant period. With regard to the withdrawal of certain cheques by the Petitioner from the account of the partnership firm, in the absence of any material establishing a prima facie nexus with the alleged offence, it cannot be said that the Petitioner was involved in the alleged crime. Except for the withdrawal of two cheques, there is no material in the entire gamut of allegations implicating the present Petitioner.

10. As discussed above, in order to fasten criminal liability on a person, mere withdrawal of a cheque, in the absence of any other material connecting him with the commission of the offence, would be insufficient and fatal to the prosecution. Therefore, the continuation of proceeding against the Petitioner would be an abuse of process of law. The Petitioner cannot, prima facie, be held to be involved in the alleged crime so as to justify continuation of the proceeding against him.

11. It is, however, made clear that in the event any substantial evidence emerges during trial implicating the Petitioner, he may be arrayed as an accused by invoking the provisions of Section 319 of the Cr.P.C.

12. Accordingly, the proceeding, as against the present Petitioner, corresponding to G.R. Case No.570 of 2010 pending before the learned J.M.F.C. (P), Kujanga, stands quashed and the CRLMC is allowed.