

(2012) 05 JH CK 0002

Jharkhand High Court

Case No: Criminal Miscellaneous No. 749 of 2011

Anil Kumar Singh and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: May 3, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120(B), 409, 420, 467, 468

Citation: (2012) 3 JCR 585 : (2012) 4 JLR 275

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Advocate: Sujit Narayan Prasad, for the Appellant; D.K. Chakravorty, for the State, for the Respondent

Final Decision: Allowed

Judgement

R.R. Prasad, J.

This application has been filed for quashing of the entire criminal proceeding of Khunti Police Station Case No. 60 of 2000 (G.R. No. 241 of 2000) including the order dated 18.11.2008 passed by the then Additional Chief Judicial Magistrate. Khunti whereby and whereunder cognizance of the offences punishable under Sections 409, 467, 468, 471, 420 and 120(B) of the Indian Penal Code was taken against the petitioners, who at the relevant point of time were posted as Junior Engineers in Arki, Khunti and Murhu block. It does appear that when the Deputy Commissioner, Ranchi came to know that the engineers including these petitioners who had been entrusted with the works of construction/repairing of the road under Rural Engineering Organization, Works Division, Ranchi, were indulged themselves in several kinds of irregularities constituted a Committee who inspected different works done by these petitioners and other persons and came to the finding that the engineers without getting the work completed got the entire amount withdrawn and thereby they have misappropriated the said amount.

2. So far these petitioners are concerned, it was found during enquiry that the petitioner No. 1 was entrusted to supervise repairing work of the roads (i) National Highway No. 33 Jeradih to Murpa (ii) Khunti Tamar Road Utihat and (iii) Tamar Nauri-path but without, completing the work, as per specification, they misappropriated a sum of Rs. 1,23,735/-, Rs. 93,527/- and Rs. 44,651/-.

3. Similarly in case of petitioner No. 2, it was found that the roads which were to be repaired/constructed under his supervision had never been repaired satisfactorily and that the earth work was never found to have been done to the extent it was claimed to have been done and thereby they have also been alleged to have misappropriated the amount.

4. Likewise petitioner No. 3, who was entrusted to get seven roads repaired/constructed have also been alleged to have misappropriated the amount as some roads were never found to have been repaired satisfactorily and that in some cases, the amount was withdrawn on the pretext that the work is complete but, in fact, it had never been completed.

5. On the basis of the said enquiry report, Khunti P.S. case No. 60 of 2000 was registered under Sections 409, 467, 468, 471, 420 and 120(B) of the Indian Penal Code against 13 persons including these petitioners. The matter was taken up for investigation. However, during investigation, no culpability was found against any of the petitioners and therefore, final form was submitted whereby all these three petitioners were exonerated but the Court on the basis of materials available in the case diary took cognizance of the offences, as stated above, against the petitioners, vide its order dated 18.11.2008. That order is under challenge.

6. Mr. S.N. Prasad, Learned Counsel appearing for the petitioners submits that after instituting of the case these petitioners were put to departmental proceeding on the same charges upon which first Information report was lodged but the department failed to establish charges against the petitioners and thereby enquiry report was submitted exonerating all the petitioners but the Disciplinary Authority did not find the enquiry report to be satisfactory and hence, he passed an order for holding a fresh enquiry. Thereupon, another enquiry officer conducted departmental proceeding, he too did not find any of the petitioners guilty for any of the charges, still the Disciplinary Authority inflicted punishment against the petitioners No. 1 and 3 but those orders when were challenged before the appellate authority, were set aside and the petitioners were exonerated and that so far as the petitioner No. 2 is concerned, the enquiry report exonerating him from the charges was accepted by the Disciplinary Authority. Thus, it was submitted that when the petitioners have been exonerated in the departmental proceeding on the same charge, the entire prosecution case including the order taking cognizance warrants to be quashed in view of the decision rendered in a case of [P.S. Rajya Vs. State of Bihar](#),

7. The aforesaid proposition advanced on behalf of the petitioners that the petitioners on being put to departmental proceeding on the same charges upon which first Information report has been lodged could not be controverted on behalf of the State.

8. Thus, there has been no dispute that the petitioners on being put to departmental proceeding on the same charges on which first information report has been lodged have been exonerated and thereby the entire criminal proceeding warrants to be set aside in view of the decision rendered in a case referred to above wherein it has been held as follows:

The standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. In the instant case the charge in the departmental proceedings and in the criminal proceedings is one and the same. If the charge which is identical could not be established in a departmental proceedings and in view, of the admitted discrepancies in the reports submitted by the valuers one wonders what is there further to proceed against the appellant in criminal proceedings.

Under the circumstances, entire criminal proceeding including the order dated 18.11.2008 under which cognizance of the offence has been taken against the petitioners is hereby set aside. Accordingly, this application stands allowed.