

(2009) 04 JH CK 0019

Jharkhand High Court

Case No: Criminal M.P. No. 49 of 2008

R.K. Jain @ Raj Kumar Jain

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: April 2, 2009

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 120B, 419, 420, 467, 468

Citation: (2011) 2 JCR 318

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R.R. Prasad, J.

This application has been filed u/s 482 of the Code of Criminal Procedure for quashing the entire criminal proceedings of Govindpur (Barwada) P.S. Case No. 83 of 2004 (G.R. No. 1049 of 2004) instituted under Sections 419, 420, 467, 468, 471 and 120(B) of the Indian Penal Code including the order dated 5.10.2004 passed by Chief Judicial Magistrate, Dhanbad by which cognizance of the aforesaid offences has been taken against the Petitioner.

2. It is the case of the prosecution that when the informant the then Officer -in-Charge Barwada Police Station got information that illegal coal is being unloaded in the premises of M/s. Saurav Coke Industry, Panduki, he along with police party raided that place and found one truck bearing No. BR-17B-6382 loaded with the coal standing inside the premises of the said Industry and as soon as they came there the persons, who were engaged in getting the coal unloaded, fled away and then truck was found loaded with 11.105 MT of coal and from perusal of the document produced, it appeared to them that the said coal was to be transported to M/s.

Oriental Coke Manufacturing Pvt. Ltd., Govindpur but instead of taking coal to that concern, it has been brought to M/s. Saurav Coke Industries, Panduki and thereby the accused persons including the Petitioner, Managing Director of M/s. Oriental Coke Manufacturing Pvt. Ltd. and others have been alleged to have committed offences under Sections 419, 420, 467, 468, 471 and 120(B) of the Indian Penal Code.

3. On completion of investigation, charge-sheet was submitted upon which cognizance of the offence has been taken against the Petitioner and others.

4. Being aggrieved with that order, the Petitioner has moved this Court by way of instant application for quashing the entire criminal proceeding as this Court has already quashed the aforesaid criminal proceeding against co-accused Ramesh Chandra Agarwal, proprietor of M/s. Oriental Coke Manufacturing Pvt. Ltd. after holding that allegation made in the First Information Report never constitute any offence and in that event, entire criminal proceeding is fit to be quashed so far this Petitioner is concerned.

5. Having heard learned Counsel appearing for the parties, it does appear that First Information Report was lodged against the Petitioner Ramesh Chandra Agarwal and others on the allegation that coal allotted to M/s. Oriental Coke Manufacturing Pvt. Ltd. by the Coal Company was supposed to be transported to the said Company but instead of coal being brought to the said firm, it was taken to the premises of M/s. Saurav Coke Industries and taking this allegation to be true, it was held in case of Ramesh Chandra Agarwal v. State of Jharkhand (Cr. M.P. No. 1352 of 2004) that allegations made in the First Information Report do not constitute any offence and, therefore, it was held that continuation of the proceeding against the Petitioner would certainly amount to abuse of the process of law and hence, entire criminal proceeding was quashed. The case of the Petitioner is squarely covered by the said order passed in Cr. M.P. No. 1352 of 2004.

6. Accordingly, entire criminal proceeding of Govindpur (Barwada) P.S. Case No. 83 of 2004 (G.R. No. 1049 of 2004) including the order dated 5.10.2004 passed by the Chief Judicial Magistrate, Dhanbad taking cognizance of the offences is hereby quashed so far the Petitioner is concerned.

7. In the result, this application is allowed.