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(2012) 04 JH CK 0043

Jharkhand High Court

Case No: Criminal Miscellaneous No. 4630 of 2001

Dhiresh Parmar — APPELLANT

Vs

State of Jharkhand — RESPONDENT

Date of Decision: April 26, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120(B), 419, 420, 467, 468

Citation: (2012) 04 JH CK 0043

Hon'ble Judges: R.R. Prasad, J

Bench: Single Bench

Advocate: A.K. Das, for the Appellant;

Final Decision: Allowed

Judgement

R.R. Prasad

1. Heard learned counsel appearing for the petitioner and leaned counsel appearing for the State. This application has been field for quashing of the entire criminal proceeding of Dhanbad P.S. Case No. 757 of 1995 (G.R.No.3432 of 1995) including the order dated 10.7.1998 passed by the then Chief Judicial Magistrate, Dhanbad whereby and whereunder cognizance of the offences punishable under Sections 419, 420, 467, 468, 471, 472, 120(B) of the Indian Penal Code has been taken against the petitioner.

2. The case of the prosecution, as is there in the first information report is that without there being any application for sanctioning loan for purchase of the vehicles by the employees of the MADA, loan was shown to have been sanctioned and disbursed to them and when the notice of recovery of the loan amount was received by those employees, they brought this fact to the notice of Managing Director, MADA at whose instance the then Secretary, MADA lodged the case which was registered as Dhanbad P.S. Case No. 757 of 1995.

3. In course of investigation when complicity of some of the employees of MADA, Manager of Punjab National Bank, Dhanbad and also concerned clerk of the office of DTO was found charge sheet was submitted against them whereas this petitioner who had no concerned either with the Bank or with the MADA was not sent up for trial, still cognizance of the offence as aforesaid was taken against the petitioner on the premise that the vehicle had been recovered from the possession of the petitioner.

4. It be stated that the vehicle was never the subject matter of the case, rather the case of the prosecution is that some persons mischievously got the documents of the employees of MADA procured and on that basis, with the connivance of Manager of the Bank, loan was shown to have been sanctioned and disbursed to them and as such, recovery of vehicle, if any, from the possession of the petitioner had nothing to do with the case, On account of that, the petitioner had never been charge sheeted. Apart from recovery of the vehicle, nothing seems to be there against the petitioner. In spite of that cognizance has been taken which in the circumstances stated above can be said to have been taken without there being any material.

5. Under that situation, the order dated 10.7.1998 under which cognizance of the offence has been taken against the petitioner is hereby quashed. In the result, this application is allowed.