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Dr. Shailendra Kumar Sinha Vs State of Jharkhand

Criminal Appeal (S.J.) No. 153 of 2008

Court: Jharkhand High Court

Date of Decision: June 20, 2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€" Section 294#Penal Code, 1860 (IPC) â€" Section

120B, 409, 420, 465, 467#Prevention of Corruption Act, 1988 â€" Section 13(1), 13(2)

Citation: (2008) 3 JCR 427

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Advocate: K.P. Singh and S.N. Prasad, for the Appellant; Rajesh Kumar, for the Respondent

Judgement

R.R. Prasad, J.

Heard learned Counsel appearing for the appellant and learned Counsel appearing for the C.B.I on the matter of bail.

1. Learned Counsel appearing for the appellant submits that the appellant having been convicted u/s 120B read with Sections

420/409/467/468/471/477A of the Indian Penal Code as well as under Sections 13(2) read with Sections 13(1) (c) and (d) of the Prevention of

Corruption Act and also under Sections 420/467/468/471/465/477A of the Indian Penal Code simplicitor as well as under Sections 13(2) read

with Sections 13(1) (c) and (d) of the Prevention of Corruption Act simplicitor was awarded maximum sentence for six years on the allegation that

the appellant, being posted at relevant point of time as T.V.O. (Traveling Veterinary Officer) in the District Animal Husbandry Department,

Chaibasa, in conspiracy with the other accused did give certificate regarding receipt of materials/medicine/fodder without receiving those materials

facilitating the suppliers to receive money without supplying the medicine/fodder, but the C.B.I. has utterly failed in proving the fact that the

appellant without receiving the materials gave certificate of receipt. On the contrary, so many prosecution witnesses such as, P.W. 41, P.W. 106,

P.W. 86 and P.W. 130 have admitted that the materials which were supplied by the suppliers to the office of the District Animal Husbandry,

Chaibasa were distributed, but the court below did not appreciate this fact in right perspective. Moreover, the job of the appellant was only to

receive the consignment purchased by the Officers of District Animal Husbandry and after receiving the materials, the appellant used to make entry

of the same in the stock register and then the materials were used to be sent to different blocks which fact the prosecution witness have admitted.

but the C.B.I. never produced the stock register, though necessary application for calling for the said stock register had been filed before the trial

court and in fact the trial court had also passed the order directing the C.B.I. to produce the some, hut the C.B.I. failed to produce the register and

still the appellant was convicted on the basis of some oral evidences and also documentary evidences some of which were taken into evidence u/s

294 Cr.P.C. behind the back denying an opportunity to the appellant for challenging its genuinity and as such the order of conviction and sentence

is quite bad in law.

2. Learned Counsel further submits that none of the witnesses examined by the prosecution has come forward to prove that this appellant had

meeting of the mind with the other accused for committing the offence alleged and as such any conviction of the accused under Sections

120B/420/467/468/471 of the Indian Penal Code is quite bad and further in absence of any evidence regarding receiving of illegal gratification

attracting the offence under Sections 13(2) read with Sections 13(1) (c) and (d) of the Prevention of Corruption Act, the appellant's conviction for

the said offence is also bad and, therefore, under these situations, the appellant deserves to be admitted to bail.

3. As against this, learned Counsel for the C.B.I. submits that this is one of the cases in which the appellant in conspiracy with other accused

persons got the allotment letter manufactured and then the officials of the District Animal Husbandry Department issued supply orders to different

suppliers for supplying the materials/medicine/fodder, but the suppliers without supplying the materials/medicine/fodder to the extent which they

claimed took payment putting the State exchequer to great loss and so far this appellant is concerned, he has given so many certificates of receiving

the materials/medicine/fodder, though in fact, he had never received the materials in the quantity for which he had given receipt and this would be

evident from the evidence of P.W. 24, P.W. 25, P.W. 26, P.W. 33 and some of the witnesses such as P.W. 45 and P.W. 73 have said that the

medicines which the suppliers claimed to have supplied were never manufactured by the Company, still the appellant put endorsement over the bills

of receiving of those medicines which amply proves that the appellant was very much in league with the other accused and by giving false certificate

the appellant facilitated the other accused to take payment without supplying the materials and thereby put the State exchequer to great loss.

4. Regard being had to the facts and circumstances of the case, I am not inclined to enlarge the appellant on bail. Hence, the prayer for grant of

bail to the appellant is, hereby, rejected at this stage.

5. However, the appellant would be at liberty to renew his prayer for bail after serving half of the sentence of maximum sentence imposed against

him.