(2009) 1 JCR 543

Jharkhand High Court

Case No: None

Peter Bara	APPELLANT
Vs	
The State of Jharkhand, The Revisional Officer-cum-Secretary, Forest and Environment Department, The Deputy Commissioner and The Authorised-Cum-Divisional Forest Officer, Forest Division	RESPONDENT

Date of Decision: Nov. 5, 2008

Acts Referred:

- Forest Act, 1927 - Section 33, 41, 42, 52
- Penal Code, 1860 (IPC) - Section 414

Citation: (2009) 1 JCR 543

Hon'ble Judges: M.Y. Eqbal, J; Dilip kumar sinha, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

M.Y. Eqbal, J.

This appeal is directed against the judgment dated 28.3.2006 passed in W.P. (C) No. 6303 of 2005 whereby the learned Single Judge dismissed the writ petition filed by the petitioner-appellant.

2. The appellant is the owner of Truck No. BRV-9293. On 10.12.1999, the police while patrolling on Pandari Pani-Jaldega Road stopped the aforementioned truck which was

loaded with 30 pieces of semal wood. The driver told the police that the wood had been brought illegally from the forest of Bijia Dam. The driver could not produce any paper regarding the timber. Hence, the Officer-in-Charge seized the truck along with semal wood and the driver was taken into custody. The police registered case u/s 414 of the Indian Penal Code and Sections 33/41/42 of the Indian Forest Act. On the basis of seizure by the police, a confiscation proceeding was initiated by the Authorised Officer-cum-Divisional Forest Officer, Gumla u/s 52 of the Indian Forest Act.

3. In the said confiscation proceeding, in spite of service of notice, the appellant did not appear and ultimately the Authorised Officer on the basis of evidence, passed the order confiscating the truck and the seized goods. Aggrieved by the said order, the petitioner preferred appeal being Appeal No. 05 of 2002-03 and thereafter revision, but both the appeal and the revision were dismissed and the order of confiscating authority was confirmed. The appellant had challenged the said order by filing a writ petition being W.P. (C) No. 6303 of 2005 which was dismissed by the learned Single Jude in terms of the impugned judgment and order dated 28.3.2006. The learned Single Judge refused to interfere with the orders passed by the authorities in confiscating proceedings.

4. Mr. Arshad Hussain, learned Counsel appearing for the appellant, assailed the impugned orders as being illegal and without jurisdiction. Learned Counsel submitted that the entire confiscation proceedings initiated against the appellant is bad in law and is in violation of Section 52 of the Indian Forest Act. Learned Counsel submitted that neither there is seizure by the Forest Officials nor there was production of vehicle before the confiscating Authority and, therefore, the initiation of confiscation proceeding itself is without jurisdiction.

5. From perusal of the records, it appears that the confiscation proceeding was initiated on the basis of prosecution report submitted by the Officer-in-Charge of the Police Station. The Police Officer while patrolling on the road stopped the truck in question which was loaded with 30 pieces of simal wood. The driver told the Police Officer that the wood has been brought illegally from the forest and no document or paper regarding the timber was produced.

6. Hence, the truck along with the timbers were seized. The contention of the appellant that since the seizure was not made by the Forest Officer, no confiscation proceeding could have been initiated, cannot be accepted. Section 52 of the Act reads as under:

52. Seizure of property liable to confiscation.-(I) When there is reason to believe that a forest-offence has been committed in respect of any forest- produce, such product, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a

report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

7. The aforesaid Section 52 was substituted by Bihar Amendment which also provides that whenever a forest offence has been committed in respect of any forest produce, such forest produce together with the vehicle may be seized by any Forest Officer or Police Officer. It further provides that such Forest Officer or the Police Officer shall produce the property seized or the seizure-report on the basis of which the confiscating authority will initiate confiscation proceeding.

8. In our considered opinion, therefore, there is no illegality or irregularity in initiation of confiscation proceeding, which is in accordance with law. The learned Single Judge, therefore, rightly did not interfere with the impugned orders passed by the confiscating authority, the appellate authority and the revisional authority, who came to a concurrent finding with regard to the forest offence committed by the appellant

9. This appeal has, therefore, got no merit, which is accordingly dismissed.