

(2003) 11 JH CK 0024

Jharkhand High Court

Case No: Acquittal Appeal No. 12 of 2002

State of Jharkhand

APPELLANT

Vs

Basant Kumar Poddar (Mines
Owner) and Another

RESPONDENT

Date of Decision: Nov. 12, 2003

Citation: (2004) 1 JCR 615

Hon'ble Judges: S.J. Mukhopadhaya, J; Lakshman Uraon, J

Bench: Division Bench

Advocate: S.N. Rajgarhia, for the Appellant; L.K. Bajla and Tapash Kabiraj, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. The case of the prosecution is that there was a lease in favour of the Bihar State Mineral Development Corporation given on 27th April, 1976 with respect to 134 acres of land of Hotai forest area to carry on business operation after the enactment of F.C. Act, 1980 and the accused persons were entitled to win the mines only in respect to land which was cleared and broken on 25th October 1980.

2, Further case of the prosecution is that on 25th October, 1980, the broken land in forest area was marked and identified by pillars, but the accused persons won the mines and removed minerals from the mines which was beyond the forest area marked and identified on 25th October, 1980 and for that no permission was taken from the Central Government.

3. The prosecution produced and examined three witnesses, namely, Parikshit Pathak (PW 1); Bhola Manjhi (PW 2); and Hari Nandan Shukla (PW 3) to establish its case. Out of those three prosecution witnesses, two witnesses, PWs 2 and 3 were formal witnesses.

4. The defence on the other hand, also examined three witnesses, namely, Banwari Lal Agrawal (DW 1); Magnath Mishra (DW 2) and Upendra Narayan Singh in order to demolish the case of the prosecution produced letter No. 652/P (Ext. A) and agreements (Exts. B and B/1 in their support.

5. The Court below noticed that Parikshit Pathak (PW 1) deposed that on 11th June 1996 at about 3 p.m., he was at Hotai forest area and saw some loose soil near the mining area. No specific evidence was produced by the prosecution in support of the allegation that the accused persons won the mines and extracted minerals beyond the area which were marked and identified on 25th October, 1980.

6. In the aforesaid background and in view of the Supreme Court decision, reported in [State of Bihar Vs. Banshi Ram Modi and Others](#), that the Central Government approval was not required in respect to forest area already broken or cleared prior to the commencement of the Act, the Court below came to a definite conclusion that the prosecution miserably failed to establish its case beyond all reasonable doubt.

7. We find no merit in this Acquittal Appeal. Acquittal Appeal is, accordingly dismissed.