

K.S. Swaminathan, Sudin Bhattacharya and Deobrata Upadhyay Vs The State of Jharkhand and Lal Tudu

Court: Jharkhand High Court

Date of Decision: April 11, 2012

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 4

Factories Act, 1948 â€” Section 92

Penal Code, 1860 (IPC) â€” Section 287, 304A, 337, 338

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Advocate: Ajay Kr. Sah, for the Appellant; S.K. Dubey, Assistant Public Prosecutor for the State, for the Respondent

Final Decision: Allowed

Judgement

R.R. Prasad, J.

Heard learned counsel appearing for the petitioners and learned counsel for the State. This application has been filed for

quashing the entire criminal proceeding of Gamharia (Kandra) P.S. Case No. 17 of 2008 (G.R. No. 146 of 2008) including the order dated

16.1.2009, passed by the learned Chief Judicial Magistrate, Seraikella, wherein cognizance of the offences under Sections 287, 337, 338 and

304A of the Indian Penal Code has been taken against the petitioners.

2. Learned counsel appearing for the petitioners submits that cognizance under the aforesaid offences has been taken against these petitioners and

also against one Rabindra Agarwal, who had preferred an application being W.P. (Cr.) No. 408 of 2009, for quashing of the entire criminal

proceeding. That application was allowed and the criminal proceeding has been quashed and, therefore, the order taking cognizance is also fit to

be quashed, so far these petitioners are concerned.

3. Having heard learned counsel appearing for the parties, it does appear that criminal proceeding against Mr. Rabindra Agarwal was quashed

after recording following finding.

I do find sufficient force in the submission. There has been no doubt that the allegation upon which F.I.R. was lodged, comes well within the ambit

of the provision as enshrined u/s 92 of the Factories Act and as such, prosecution under the general law, in view of the Section 4 of the Code of

Criminal Procedure is not permissible which proposition of law had already been laid down in a case of Binod Kumar Das and Another Vs. State

of Jharkhand and Another, .

4. Similar is the situation here in this case.

5. Accordingly, the order dated 16.1.2009, under which cognizance of the offences under Sections 287, 337, 338 and 304A of the Indian Penal

Code has been taken against the petitioners is hereby, quashed. In the result, this application stands allowed.