

(2010) 02 JH CK 0133

Jharkhand High Court

Case No: None

Anup Kedia

APPELLANT

Vs

State of Jharkhand
and Another

RESPONDENT

Date of Decision: Feb. 10, 2010

Acts Referred:

- Air (Prevention and Control of Pollution) Act, 1981 - Section 37, 38, 39, 40
- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Mines and Minerals (Development and Regulation) Act, 1957 - Section 21, 4
- Penal Code, 1860 (IPC) - Section 120B, 147, 467, 468

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

M.Y. Eqbal, J.

By this application u/s 482 Cr.P.C., petitioner has prayed for quashing the entire criminal proceedings against him in Gua PS Case No. 15 of 2006 corresponding to G.R. Case No. 119 of 2006 registered under Sections 147/467/468/120B I.P.C. and under Sections 4/21 of the Mines and Minerals (Development and Regulation) Act, 1957 and under Sections 37/38/39/40 of the Air (Prevention and Control of Pollution) Act, 1981. The petitioner has also prayed for quashing the First Information Report so far petitioner is concerned in the aforesaid case.

2. It appears that the aforesaid case was registered on the basis of written report jointly submitted by three persons, namely, Junior Environment Engineer, Jharkhand State Pollution Control Board, Adityapur, Jamshedpur, Circle Officer, Noamundi and District Mining Officer, Chaibasa to the Officer-in-Charge, Barajamda Out Post According. to the F.I.R., on 26.6.2006, the District Level Task Force conducted raid at the premises of seven Iron Ore Crushing units situated at Mauza Parambaljodi,

Barajamda in order to prevent illegal mining, transportation, crushing and dumping of minerals. It is alleged that during the said raid, sanction and no-objection of the Jharkhand State Pollution Control Board were examined, but some of them could not produce the documents. Eighteen persons found working at seven crushers were arrested by the order of Junior Environment Engineer, Jharkhand State Pollution Control Board, Adityapur, Jamshedpur and were handed over to the Officer-in-Charge, Barajamda Police Station. Various other allegations have been made in the First Information Report

3. Mr. Binod Poddar, learned Counsel appearing for the petitioner, firstly submitted that on the basis of allegations made in the F.I.R., No case is made out so far petitioner is concerned for the offence alleged to have been committed by Mm. Learned Counsel submitted that there is no allegation against the petitioner under Sections 147, 467, 468, 120B I.P.C. and u/s 4/21 of the Mines and Minerals (Development and Regulation) Act and also under the Prevention of Control of Pollution Act Any allegation made against the petitioner is absurd and baseless because and the informants themselves have categorically admitted and stated in the written report attached with the F.I.R. that petitioner"s crushers were under construction. Learned Counsel lastly submitted that the question of obtaining permission from the competent authority for running the crushers will arise only after the construction of the plant, installation of machines and starting production.

4. Undisputedly, the petitioner has been constructing a plant and for that purpose, petitioner himself stated that he has obtained no-objection certificate under the Air (Prevention and Control of Pollution) Act by the Pollution Control Board on the basis of application dated 10.6.2005. No-objection under different provisions was obtained by the petitioner and the period of such no-objection stood expired which is evident from the documents annexed with the application.

5. Be that as it may, existence of plant which is alleged to be under construction is not undisputed. The question whether such permission or no-objection is to be obtained before or prior to commence of the activities are not to be considered at this stage. It is well settled that if the allegations made in the First Information Report constitute an offence, then in exercise of power u/s 482 Cr.P.C, F.I.R cannot be quashed. The defence which the petitioner has taken in this application can be looked that and considered by the Court below at the time of framing of charge and not for the purpose of quashing the entire criminal proceeding and the First Information Report

6. After having given my anxious consideration in the matter, I do not find any justification in quashing the First Information Report and the criminal proceeding. This application is, accordingly, dismissed.