

Kumar Arjun Alias Arjun Singh Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Aug-06-2013

Appellant : Kumar Arjun Alias Arjun Singh

Respondent : State of Jharkhand

Judgement :

In the High Court of Jharkhand at Ranchi Cr.M.P.No.1890 of 2013 Kumar Arjun @ Arjun SinghPetitioner VERSUS State of JharkhandOpposite Party CORAM: HONBLE MR. JUSTICE R.R.PRASAD For the Petitioner :Mr.Anil Kumar Sinha, Sr. Advocate For the State :A.P.P 4.6.8.13. Heard learned counsel appearing for the petitioner and learned counsel appearing for the State. This application has been filed for quashing of the entire criminal proceeding of Dhanbad (Dhansar) P.S case no.461 of 1998 including the order dated 13.6.2002 whereby and whereunder cognizance of the offence punishable under Sections 467, 468, 471, 420, 379, 411 of the Indian Penal Code was taken against the petitioner. It is the case of the prosecution that when information was received that a truck, bearing registration no.UP-32T-6335 loaded with coal is proceeding towards Dhansar Road, it was intercepted by the personnel of CISF who asked the driver and cleaner to produce documents under which coal was being carried.They failed to produce any document and therefore, a case was registered as Dhanbad (Dhansar)P.S. Case no.461 of 1998 under Sections 379, 411, 120(B) of the Indian Penal Code suspecting the coal to be stolen. The matter was investigating upon. During investigation, the statements of

the driver and also the cleaner were recorded. Further during investigation when it transpired that coal belongs to M/s. Premier Hard Coke Suppliers Pvt. Ltd., a document was called for from the Commissioner, Commercial Tax Department which was made available. From it, it could be known that the petitioner is one of the partners of the said firm. Thereupon a supplementary charge sheet was submitted whereby the petitioner was sent up for trial. Thereupon cognizance of the office was taken, vide order dated 13.6.2012 against the petitioner which is under challenge. Mr.Sinha, learned Sr. counsel appearing for the petitioner submitted that neither the petitioner is named in the FIR nor anything did transpire during investigation showing involvement of the petitioner in any manner, still the charge sheet has been submitted simply on the ground that coal belongs to a firm known as M/s. Premier Hard Coke Suppliers Pvt. Ltd. to which the petitioner as per document supplied by the Commercial Tax Department is one of the partners but that document never happens to be relevant for prosecuting the petitioner. In this regard, it was further submitted that it is true that the petitioner was one of the partners of the then M/s. Premier Hard Coke Suppliers Pvt. Ltd. which was a partnership firm which firm subsequently was incorporated under the Companies Act on 5th day of April, 1990, to which three persons namely, Ram Chandra Singh, Dr. Awadhesh Kumar Singh and Smt.Madhuri Singh were the Directors. Of them, Ram Chandra Singh was the Managing Director and thereby it is quite evident that the petitioner has never been the Director of the said company, still charge sheet was submitted on the basis of old document which was related to the partnership firm which cannot be a valid document for prosecuting the petitioner and therefore, order taking cognizance is fit to be quashed. A counter affidavit has been filed wherein in paragraph 10, it has been stated that during investigation, it was revealed that the said coal found in the truck was loaded by the owner and employee of the coal company, namely, M/s. Premium Hard Coke Suppliers Pvt. Ltd., situated near Bakhra Mahavir Mandir. Further it has been stated that the Commercial Tax Department was requested/enquired about the owner of the said company and the Department, vide its letter dated 21.9.2008 revealed the names of six persons including the petitioner to be the owner/partners of the said company which is evident from paragraphs 67 and 70 of the counter affidavit. Having heard learned counsel appearing for the parties and taking into account

the case made out by the parties, it does appear that the petitioner is being prosecuted for the reason that he happens to be the partner of the company, namely, M/s. Premium Hard Coke Suppliers Pvt. Ltd. owner of which company got the coal loaded on the truck but, as per the averment made in the petition, the said partnership firm was incorporated under the Companies Act in the year 1990 whereby as per memorandum of association annexed as Annexure 4 that three persons, namely, Ram Chandra Singh, Dr.Awadhesh Kumar Singh and Smt. Madhuri Singh are the Directors whereas name of this petitioner never appears to be there amongst the Directors. In such event, the document which was supplied by the Commercial Tax Department upon which petitioner is being prosecuted becomes baseless and it can never assume characteristic of legal evidence. In that event, in absence of any other material showing involvement of the petitioner in any manner in the alleged offence, the court certainly seems to have committed illegality in taking cognizance of the offence. Accordingly, the order taking cognizance is hereby quashed. In the result, this application stands allowed. (R.R.Prasad, J.) ND/

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