

Pradeep Kumar Jain Vs. State of Chhattisgarh and anr.

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Court : Chhattisgarh

Decided On : Nov-27-2002

Reported in : 2003(1)MPHT53(CG)

Judge : Fakhruddin, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 482

Appeal No. : Misc. Criminal Case Nos. 1951, 1952, 1981, 1982 of 2002

Appellant : Pradeep Kumar Jain

Respondent : State of Chhattisgarh and anr.

Advocate for Def. : Ranbir Singh, Govt. Adv.

Advocate for Pet/Ap. : Meena Shahstri and Neeta Kesarwani, Advs.

Judgement :

ORDER

Fakhruddin, J.

1. Heard analogously alongwith M.Cr.C. Nos. 1952/2002, 1981/2002 and 1982/2002.

2. This petition has been filed under Section 482 of Cr.PC for quashing the charge-sheet as well as FIR/challan on the ground that the applicant has not

committed any offence.

3. The prosecution story is that in village Charsikhara of Kunkuri Janapad Panchayat while drought/scarcity relief work was being carried out, one Village Assistant namely Toppo had prepared forged muster rolls in collusion with Salesman namely F. Kerketta and rice was distributed. It is alleged that by forged signatures and thumb impressions of labourers they misappropriated 35 quintals of rice with the help of Dhaneshwar, Hemanth Yadav and Ravi Shankar Yadav. The matter was examined by S.D.O. concerned and the S.D.O. lodged report to the Station House Officer. The S.H.O. after a detailed investigation filed challan and as many as 13 persons have been arraigned as accused persons. The enquiry report goes to show that in respect of relief works, 111 quintal rice was given and the said quantum of rice has been shown to have been distributed during 18-2-2001 to 24-2-2001 whereas on enquiry it has been found that misappropriation took place. Sarpanch Smt. Alisa, w/o Hirmon so also Shri Hirmon, husband of the Sarpanch, Sub-Engineer Shri Jhangde, Distribution Officer Shri M.R. Arun, labourer Ajit s/o Philip and other labourers namely Balsai, Milthanus, Pilu, Victar, Gregari, Likhun, Dhansai Dineshwar and Sudhir Edward etc., were also examined and detailed enquiry report has been prepared by S.D.O. on 13-3-2001.

4. The statement of witnesses in the case diary are there and according to which the applicant has played active role. The vehicle in question has been seized from Manoj Kumar Jain.

5. Learned Counsel for the applicant has relied on a decision rendered in the case of Alpic Finance Ltd. v. P. Sadasivan and Anr., reported in 2001 Cr.LJ 1246. The facts of that case are distinguishable to that of present case as in that case there was no wilful representation and that there was no allegation of fraud or dishonest intention. The respondent therein paid substantial payment as per Hire Purchase agreement with appellant. Learned Counsel for the applicant has also vehemently relied on a decision of Supreme Court in case of Madhavrao Jiwaji Rao Scindia and Anr. v. Sambhajirao Chandrojirao Angre, reported in AIR 1988 SC 709, in which the Supreme Court held as under:--

'7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by Court is as to whether the controverted allegations as made prima facie establish the offence. It is also for the Court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration the special facts of the case also quash the proceeding even though it may be a preliminary stage.'

6. In the said case, the Supreme Court, while holding so, was of the view that there would be certain situations where it would predominantly be a civil wrong and may or may not amount to a criminal offence and that case is one of that type where, if at all, the facts may constitute a civil wrong and the ingredients of the criminal offences are wanting.

7. The law on the subject is well settled. The power to quash proceeding is there, but each case depends on its own facts and circumstances and material on record.

8. The case in hand is not that of no material against the accused/applicant. In the present case, 35 quintals of rice or so, meant for the drought/scarcity relief have been misappropriated and detailed enquiry has been made, statements and documents are there. The role assigned is there. The rice meant for poor and downtrodden people under the relief work has been misappropriated, diverted and sold by the devices adopted.

9. Lastly, Counsel for the appellant submitted that there may be delay in the trial and as such, prayed for expeditious trial. The State would take appropriate steps to see that delay does not occur and if the circumstances so warrant, special public prosecutor may be appointed for expeditious trial. Learned Counsel for the applicants shall also render due co-operation. Before parting, it is directed that the Trial Court shall decide the case on its own merits in accordance with law without being influenced by the remarks made in this order.

10. A copy of this order be placed in the record of M.Cr.C. No. 1952/2002, M.Cr.C. 1981/2002 and M.Cr.C. 1982/2002.

11. With the direction/observation, this petition is disposed of.

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