

Ajay Kumar Jalan @ Ajay Jalan Vs. the State of Jharkhand and anr.

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Court : Jharkhand

Decided On : Feb-13-2007

Reported in : [2007(2)JCR286(Jhr)]

Judge : D.K. Sinha, J.

Appellant : Ajay Kumar Jalan @ Ajay Jalan

Respondent : The State of Jharkhand and anr.

Disposition : Petition dismissed

Judgement :

D.K. Sinha, J.

1. The petitioner Ajay Kumar Jalan @ Ajay Jalan has preferred two petitions one under Sections 397/401 Code of Criminal Procedure and another under Article 226 of the Constitution of India which are directed against the common order impugned passed by Shri Sanjay Kumar Chandriyavi, Additional Sessions Judge, F.T.C. No. VI, Giridih in Cr. Revision No. 154/03 and Cr. Revision No. 161/03, decided by a common order dated 19.3.04 whereby and whereunder the petition filed by the petitioner Ajay Kumar Jalan @ Ajay Jalan for the release of the edible oils in his favour was rejected and the same was directed to be delivered to the O.P. No. 2 M/s Mahesh Edible Oil Industries Limited on furnishing bonds of Rs. 7,00,000/-.

2. In the writ petition as well as in the Cr. Revision the relief sought for are common and to quote:

Pending final hearing of this application, the operation of order dated 19.3.2004 passed by Shri Sanjay Kumar Chandriyavi, Additional Sessions Judge, F.T.C. VI, Giridih in Cr. Revision No. 154/03 (in Cr. Revision Petition and Cr. Revision No. 161/03 in Cr. Writ No. 111 of 2004 may kindly be set aside. The effect of both the reliefs is common. However, in the Cr. Writ the specific prayer has been made as to why article seized in Giridih (Town) P.S. Case No. 237/03 be not released to the petitioner (Ajay Kumar Jalan @ Ajay Jalan).

3. Heard the learned Counsels for the parties at length.

4. The brief fact of the case is that the informant Ashok Kumar Singh Officer-in-Charge of Giridih (Town) Police Station on tip off, raided the house of the petitioner Ajay Kumar Jalan @ Ajay Jalan at Darzee Mohalla, Giridih on 29.9.03 with the police party, in presence of the witnesses and in course of search of his house he found mustered oil of 'Saloni' Brand were kept there in huge quantity. He called for the independent witnesses and when the documents related to such mustered oil were demanded, no document was produced except an explanation that the relevant documents would be lying with the Nimiaghat Police Station for the reasons that the truck which was carrying 'Saloni' Brand mustered oil met with an accident within the jurisdiction of Nimiaghat Police Station and that the said 'Saloni' brand edible oils were brought by Babloo Ojha and sold to him against consideration. The mustered oil of 'Saloni' brand were seized in presence of the witnesses against the seizure list upon being dissatisfied with the explanation given and the petitioner was arrested. However, in course of interrogation the petitioner disclosed that he had also kept mustered oil in the Marketing Yard and about 475 packets of 'Saloni' Edible Oil were seized from the godown of the petitioner allotted to him in the yard. It was further alleged that the pouches of the 'Saloni' Brand Mustered Oil were opened and were collected in several containers so it was difficult for the informant to specify the definite quantity of the Mustered Oil seized. The case was instituted under Section 414/34 I.P.C.

5. Learned Counsel for the petitioner submitted that though the Opposite Party No. 2 was not made party in the police case or at no point of time the evidence of any witness related to the O.P. No. 2 in any manner including the evidence of Binay Kumar Sinha the power of attorney holder on behalf of M/s Mahesh Edible Oil Industry was recorded under Section 161 Cr.P.C. by the police but the learned Additional Sessions Judge, F.T.C. upon erroneous consideration passed the order for the release of the edible oil 'Saloni' Brand in favour of the Opposite Party No. 2, though the same was seized admittedly from the possession of the petitioner.

6. Heard learned Counsel on behalf of the petitioner at length who submitted that the petitioner was the owner of the articles seized and therefore the same would have been released in his favour during the pendency of the Criminal Case.

7. Advancing his argument, the learned Counsel submitted that by the impugned order the learned revisional court below has almost decided the title of the goods seized in the revision, which is illegal and unsustainable in law. The claims of the petitioner was negatived only on the ground that the documents could not be produced at the time of search and seizure and therefore the order impugned may be set aside and the goods be delivered to the petitioner for which he is ready to execute indemnity bond.

8. From the careful perusal of the order impugned passed by the Additional Sessions Judge, F.T.C. IV, Giridih in Cr. Revision No. 154/03 and Cr. Revision No. 161/03 which was decided by a common order, I find that after finding a prima facie case upon the documents produced including the transportation Challan of the transportation of 'Saloni' Brand of edible oil from Samsabad, Agra to Calcutta with the name of consigner and consignee I find that the learned revisional court below found a prima facie case in favour of O.P. No. 2 and directed the seized edible oils to be released in favour of the Opposite Party No. 2 on executing bond of Rs. 7,00,000/- as against the same was valued at Rs. 2,00,000/- by the petitioner before the court below. I do not find any illegality or irregularity therein in the order impugned dated 19.3.2004 and it is upheld.

9. There being no merit and without prejudice to the parties both the Cr. Revision No. 260/2004 and W.P.(Cr.) No. 111/2004 are dismissed with the direction to the

trial court to expedite the trial so as to conclude it nearly within four months.

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