

Surendra Singh and Anr Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : May-18-2015

Appellant : Surendra Singh and Anr

Respondent : The State of Jharkhand and Ors

Advocate for Pet/Ap. : Sri. Indrajit Sinha

Judgement :

1 IN THE HIGH COURT OF JHARKHAND, RANCHI Cr. M.P. No. 3034 of 2014

1. Surendra Singh son of Shri Udaya Singh, resident of 579,B Block, Panki, P.O. & P.S. Panki Kanpur, Dist. Kanpur

2. Shiva Datta Jha, son of Late Kamala Dutt Jha, resident of Plot No. 31, Bharat Ekta Co-operative, P.O. & P.S. Sector XII, District Bokaro Petitioners
Versus 1.The State of Jharkhand 2.Shri Ashok Kumar Sinha, In Charge, Deputy Labour Commissioner, Bokaro P.O. & P.S. B.S. City, Dist. Bokaro 3.Ram Kishore Prasad, Son of Late B.N. Singh, resident of Qr. No. 1451, sector-8A,P.O. & P.S. B.S. City, Dist. Bokaro Opp. Parties With Cr. M.P. No. 3063 of 2014

1. M/s Bokaro Steel Plant, Bokaro Steel City, Bokaro represented through N.R. Bajpeyi, son of Late J.N. Bajpeyi, Senior Manager (Law) SAIL, Bokaro Steel Plant P.O. & P.S. B.S. City, Bokaro Steel City, Dist. Bokaro

2. Shitanshu Prasad, son of Late Durga Prasad, working for gain as ED (Personnel & Administration) SAIL, Bokaro Steel Plant, P.O. & P.S. B.S. City, Bokaro Steel City, District Bokaro, 3. Basant Kumar Thakur, son of Late Indranath Thakur, working for gain as General Manager Personnel SAIL, Bokaro Steel Plant P.O. & P.S. B.S. City, Bokaro Steel City, District Bokaro Petitioners Versus 1. The State of Jharkhand 2. Shri Ashok Kumar Sinha, In Charge, Deputy Labour Commissioner, Bokaro P.O. & P.S. B.S. City, Dist. Bokaro 3. Ram Kishore Prasad, Son of Late B.N. Singh, resident of Qr. No. 1451, sector-8A, P.O. & P.S. B.S. City, Dist. Bokaro Opp. Parties CORAM: THE HONBLE MR. JUSTICE PRASHANT KUMAR For the Petitioners : Mr. Indrajit Sinha Mr. Arpan Mishra, (In both cases) For the State : Mr. Arun Kumar Pandey, A.P.P. For the O.P. No. 3 Mr. Manish Kumar (In both cases) 2/18.05.2015 Both the applications are heard together and dispose of by this order.

2. In both the cases, petitioners have prayed for quashing the order dated 25.11.2014, passed by Chief Judicial Magistrate, Bokaro in I.D. Case No. 01 of 2007, whereby and whereunder, he took cognizance against the petitioners under Section 29 of the Industrial Disputes Act for non implementation of the award given by the Labour Court Bokaro in Reference Case No. 12 of 1987.

3. It appears that in the year 1983 an industrial dispute arose in between the management of Bokaro Steel Plant and its workman namely R. K. Prasad. Ultimately the matter referred to the Labour Court for adjudication vide Reference Case No. 12 of 1987. The Labour Court after adjudicating the dispute had given its award on 10.01.1994. Operative part of the award runs as follows:- Thus, from the above discussion it is manifest that the management has signally failed to justify its action taken in regard to stopping two annual increments of workman with cumulative effect by cogent, convincing and satisfactory evidence. The action of management is highly improper and unjustified and the workman is entitled to get all his benefits restored with retrospective effect. The management is directed to restore all the benefits to the workman of which he has been deprived with retrospective effect. This is my AWARD.

4. It appears that for implementation of the said award, the workman has filed an application before the Deputy Labour Commissioner, Bokaro. Deputy Labour Commissioner, Bokaro gave several opportunities to the petitioners for implementing the award. It appears that when the petitioners did not implement the award, the Deputy Labour Commissioner filed a complaint before the Chief Judicial Magistrate for prosecuting the petitioners under Section 29 of the Industrial Disputes Act.

5. It appears that learned Chief Judicial Magistrate vide order dated 22.06.2007 took cognizance against the petitioners under Section 18 (3) of the I.D. Act. Aforesaid order challenged by the management and petitioners in this Court vide Cr. M.P. No. 1429 of 2007, which was allowed by this Court. However, the workman filed an appeal before Hon'ble the Supreme Court against the order of this Court vide Criminal Appeal No. 1250 of 2013. It appears that the above appeal was allowed by the Hon'ble the Supreme Court vide order dated 23rd of August 2013 and the case remanded in the Court of Chief Judicial Magistrate Bokaro with a direction to pass fresh order as to whether the prosecution will continue against the petitioners or not. It appears that after the remand the learned Chief Judicial Magistrate vide his order dated 25.11.2014 took cognizance against the 3 petitioners under Section 29 of the Industrial Disputes Act. Aforesaid order impugned in these applications.

6. It is submitted by Sri Indrajit Sinha, learned counsel for the petitioners that petitioners of Cr. M.P. No. 3063 of 2014 are not responsible for implementation of the award in the year 1994, therefore, they cannot be prosecuted under Section 29 of the Industrial Disputes Act. He further submits that offence under Section 29 of the I.D. Act is punishable with six months imprisonment, therefore, the order of cognizance is time barred being violative of Section 468 of the Cr. P.C.

7. On the other hand Sri Manish Kumar, learned counsel appearing the opposite party No. 3 submits that non implementation of the award is a continuing offence as per the decision of this Court reported in 2007 (2) J.L.J.R.

299. Therefore the question of limitation does not arise in this case. He further submits that since the offence is a continuing offence, therefore, all the officers of

the company, during whose period the award had not been implemented, are liable to be prosecuted. Thus, the contention of the learned counsel for the petitioners that petitioners of Cr. M. P. No. 3063 of 2014 are not holding the office at the relevant time has no substance and therefore liable to be rejected.

8. Having heard the submissions, I have gone through the record of the case. This is a case for non implementation of the award passed by the Labour Court. Thus, as per the decision of this Court rendered in Suresh Pandey and Anr. Versus The State of Jharkhand and Others reported in 2007 (2) J.L.J.R. 299, the offence is continuing offence. Under the aforesaid facts and circumstance, in my view, question of limitation will not arise. Therefore findings of the court below in this respect does not require any interference.

9. So far as second contention raised by Sri Indrajit Sinha, it is worth mentioning that as per Section 32 of the Industrial Disputes Act all the director, manager, secretary agents or other officer or person concerned with the management of the company are liable to be prosecuted and punished unless they prove that the offence was committed without their knowledge or consent.

10. In that view of the matter, since the offence is a continuing offence, therefore, all the officers of the company who are responsible for implementing the award are liable to be prosecuted and punished 4 unless they prove that they are not involved in the commission of the said crime. Thus, I find no illegality in the order by which cognizance of the offence taken against the petitioners.

11. In view of the above discussion, I find no merit in these applications, accordingly, same are dismissed.

12. However, I give liberty to the petitioners to prove before the learned court below that they have not committed the present crime. (Prashant Kumar, J.) Binit

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