

Jharkhand High Court

Bharat Narayan Singh @ Bharat ... vs State Of Jharkhand And Ors. on 15 June, 2005

Equivalent citations: 2005 (4) JCR 76 Jhr

Author: H S Prasad

Bench: H S Prasad

JUDGMENT Hari Shankar Prasad, J.

1. Both these application under Article 226 of the Constitution of India have been filed for quashing the entire criminal prosecution including order dated 8.9.2003 passed in Chatra P.S. Case No. 96 of 1984, corresponding to GR No. 334/84 registered under Sections 379, 411, 413, 420 and 120-B of the Indian Penal Code.

2. Facts leading to filing of these applications are that on 1.8.1984 Chitranjan Prasad a Range Officer of Forest, Chatra, (respondent No. 2) filed a written report before the officer-in-charge of Chatra Police Station alleging therein that petitioner-Pramod Kumar Jaiswal had illegally cut and removed khair trees from different protected forests of Chatra Sub-division after engaging labourers and had manufactured Khata for his wrongful gain. It is alleged that after removal of Khata he kept the same in the house of one Zafar Alam @ Gandhiji of Chatra town. It is further alleged that one ASP of Chatra Police Station, on the strength of search warrant, recovered 28 bags of katha weighing 1580 kgs from the house of Zafar Alam. It is alleged that Zafar Alam produced one document, which shows that the petitioner Bharat Narayan Singh had pawned the said katha to Zafar Alam for Rupees ten thousand. It is also alleged that since the petitioner-Pramod Kumar Jaiswal was habitual offender, therefore, legal action be taken against him and his companions, who were responsible for such crime.

3. On the basis of aforesaid written report, Chatra Police Station Case No. 96/ 84, dated 1.8.1984 was registered under Sections 379 and 411 Indian Penal Code etc.

4. The learned counsel for the petitioner submitted that the petitioners are neither named as accused nor any whisper has been made against them regarding their involvement in the case. He has submitted that in the year 1982 petitioner-Bharat Narayan Singh was posted as Forest Guard at Tetaria Forest check post and petitioner-Pramod Kumar Jaiswal, who had purchased Khair trees from the Forest Department, was manufacturing katha hear the said forest and had transported and manufactured katha from the manufacturing place to Chatra town after crossing five check posts amongst one check post, in which the petitioner-Bharat Narayan Singh was posted. It is alleged that petitipner-Bharat Narayan Singh has also conspired with petitioner-Pramod Kumar Jaiswal in making interpolation in the transit permit, for which they have been made accused in this case. Cognizance in the case was taken on 2.6.1987 under the aforesaid sections. It is further submitted that the katha, weighing 1580 kgs, which was recovered from the house of said Zafar Alam, was released in favour of petitioner-Pramod Kumar Jaiswal on 21.6.1991 (Annexure-3). Later on, since Section 413 Indian Penal Code was added, the case was committed to the Court of Sessions on 9.9.1992.

5. In course of hearing on charge matter, it was found that no case is made out Section 413 Indian Penal Code, hence the case was returned back by the Additional Sessions Judge to the Court of CJM, Chatra for trial. Against the order dated 8.9.2003 (Annexure-4) petitioners filed a revision being Cr. Revision No 965/2003 in the High Court, which was heard and ultimately dismissed on 3.8.2004 but liberty was given to the petitioners to move in appropriate forum redressal of grievances. (Annexure-5). 6. It is further submitted that when katha, for which a case was lodged, has been released in favour of one of petitioners, no case is made out against the petitioners.

7. On perusal of records of both the writ applications as well as materials on record, it appears that case was lodged for illegally manufacturing and transporting 1580 kgs of katha, which was recovered from the house of one Zafar Alam. But later on petitioner Pramod Kumar Jaiswal filed a petition before the Court of learned Judicial Magistrate, Chatra who after hearing the parties concerned, directed release of katha in favour of the petitioner Pramod Kumar Jaiswal. But from the record, it nowhere appears that any revision or something like that against the order of release was preferred before the appellate Court or in any other Court for setting aside the order of release of Katha in question; it means that prosecution accepted that katha in question belongs to the petitioner Pramod Kumar Jaiswal and it is alleged that while transporting katha out of the area, some manipulations were made in the transit permit and it is also alleged that petitioner Bharat Narayan Singh @ Bharat Singh was also involved. But the case was lodged in the year 1982 and this way or that way the matter lingered for such a long time and ultimately these writ applications have been filed in the year 2004. Further, with the release of katha in question in favour of Pramod Kumar Jaiswal, it become clear that he is the owner of katha in question and when katha has been released in favour of the petitioner Pramod Kumar Jaiswal, no case is made out against him for illegally manufacturing and transporting katha. Similarly, petitioner Bharat Narayan Singh @ Bharat Singh who is said to have connived with the other petitioner Pramod Kumar Jaiswal in making some manipulation in the permit and allowing katha to pass through the check post where he was posted, also falls to the ground in view of the fact that katha in question was released in favour of the petitioner Pramod Kumar Jaiswal. Further, case has been lingering for the last twenty (20) years with no result in sight and continuance of such proceedings, in my view, will amount to abuse of the process of the Court.

8. In that view of the matter, both the applications are allowed and the order-dated 8.9.2003 passed in Chatra Police Station Case No. 96/84 corresponding to GR No. 334/84 is hereby set aside.