

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52605 of 2006

Mr.M.K.Parekh (Mannu Bhai Kalidas Parekh), retd. Managig Director Bank of Baroda Capitals, a Body corporate and constituted under the Banking Companies Act, 1970, having its Corporate Centre at C-26, G-Block, Bandra Kurla Complex, Bandra (East), Mumabi- 40005 (Address given in the Complaint petition as Dy. General Manager, Bank of Baroda, Zonal Office, Bihar, Jharkhand and Orissa Zone, 8th Floor, BSFC Building, Patna-80001)

.... Petitioner/s

Versus

1. The State of Bihar through Sri Remis Tiru, Assistant Labour Commissioner (Central) Labour Enforcement Officer (Central), Patna
2. Krishna Kumar, Workman, at Bank of Baroda, Sitamadhi Branch Sitamadhi

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anshuman

For the Opposite Party/s : Mrs. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

7 04-09-2015 Heard learned counsel for the petitioner.

In this case the prayer of the petitioner is to quash an order taking cognizance dated 9.11.2004 whereby and whereunder cognizance has been taken under section 29 of the Industrial Disputes Act on the basis of a complaint filed by the Enforcement Officer of the Labour Department in Complaint Case No. 3147(c) of 2004.

Learned counsel for the petitioner has submitted that during the pendency of this application which was awaiting final disposal of C.W.J.C.No. 5746/2004, wherein the Bank of Baroda had assailed an award of the Labour court whose implementation

has led to criminal prosecution in the aforesaid criminal case has been disposed of in terms of a compromise entered into between the workman and the Bank.

To that extent he relies on an order of this Court dated 20.4.2015 in C.W.J.C.No. 5746/2004 which reads as follows:

“ Heard learned counsel for the petitioner and the respondents.

During the pendency of the writ petition, the parties have entered into a compromise vide Annexure-15.

The terms of compromise are as follows:

“ Keeping in view that the dispute between the workman and Management of Bank of Baroda has been settled outside the court, the parties to this compromise have decided to withdraw and not to pursue Complaint Case No. 3147(C)/2004 pending before the Judicial Magistrate Court, Patna CWJC No. 5746/20014 and Cr.Misc.No. 52605/2006 pending before Hon’ble Patna High Court.

This is full and final settlement and there is no further claim from both the parties against each other.”

In this view of the matter, the Bank of Baroda does not want to press this petition.

Accordingly, this petition is dismissed as not pressed.”

In view of the subsequent development and particularly when it is being said that O.P.No.2 has been reinstated in service as was directed by the Labour Court in the award in paragraph 12

reading as follows:

“Needless to say that the worker thus deserves regularities and absorption in the Bank on permanent basis in any view of the matter. The worker has sufficiently and beyond every doubt has established his claim before this Tribunal- Banks’ action in discriminating the worker has been unjustified, illegal and against the principles of natural justice. The Bank is directed to immediately consider his candidature and claim for permanent absorption at par with other persons below him in the panels who have been allegedly absorbed by the Bank.”

and the submission of Mr. Anshuman, learned counsel appearing on behalf of the petitioner, the aforesaid award of Labour Court has already been implemented and in fact O.P.No.2 has already been reinstated in service will make this Court to hold that upon implementation of award of Labour Court, the prosecution of the petitioner for offence under Section 29(2) of Industrial Disputes Act shall be an abuse of the process of the Court.

This Court, however, will not like to finally close the criminal proceeding in absence of either the Enforcement Officer, the complainant or the workman and therefore, this Court would only give liberty to the petitioner to file an application before the court below enclosing a copy of this order for dropping the further

proceedings of the pending criminal case on the ground of award dated 20.11.2003 in Reference Case No. 177 of 1999/ 80 of 2001 has been implemented in letter and spirit.

If such an application is filed by the petitioner the court below after hearing the Enforcement Officer, the complainant as also O.P.No.2, the workman, shall pass necessary orders and would also close the pending criminal proceedings against the petitioner if it is found that the award as given by the Labour Court has been implemented particularly in the light of the compromise arrived between the parties as recorded by this Court in the aforesaid order dated 20.4.2015 in C.W.J.C.No. 5746/2004.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

surendra/-

U			
---	--	--	--