

10.05.2022

Sl. No. 54

Srimanta

Ct.No. 42

IA No.:CRAN/1/2009(Old No.:CRAN/1674/2009)
in
CRR/877/2009

In Re : An application under Section **401** read with Section **482** of the Code of Criminal Procedure, 1973.

In the matter of : **Manjit Singh @ Mohinder Singh & Anr.**
...petitioners.

Mr. Tapas Kumar Ghosh, Adv.,
Mr. Tanmoy Choudhury, Adv.

...for the petitioners.

Mr. Binay Panda, Adv.,
Mr. Subham Bhakat, Adv.

...for the State.

The petitioners have prayed for quashing of the Charge-sheet being No. 98/2003 dated 30th December, 2003 under Sections 414/34 of the Indian Penal Code read with Sections 179/181/194/197 of the Motor Vehicles Act arising out of Dadpur Police Station Case No. 27/2003 dated 30th April, 2003. A *suo motu* FIR was lodged by one Sub-Inspector of Police attached to Dadpur Police Station stating, *inter alia*, that on 30th April, 2003 he received a telephonic source information that three trucks were carrying raw coal suspected to be stolen. The said three trucks was standing by the side of Durgapur Expressway within the jurisdiction of the said Police Station. The Police Officer recorded the said information in the Police Station GD Entry Book and went along with other Police Officers to the spot to verify the said information. The Police already found three trucks loaded with coal standing by the side of the road. On being challenged, two trucks suddenly started to proceed towards

Burdwan in excessive speed. However, they could apprehend one vehicle bearing No. WB 39-4184. On interrogation the driver confessed that he and other two drivers who fled away from the spot with their respective trucks were carrying stolen coal and they did not have any document in support of the said property. Thereafter other two trucks were also intercepted. All of them admitted guilt. Police took up the investigation of the case and submitted charge-sheet against the accused persons.

It is submitted by the Learned Advocate for the petitioners that the Investigating Authority failed to produce any material evidence to suggest that the coal which was loaded in the seized vehicles was stolen property. The Police Authority did not receive any complaint from any corner to the effect that by means of dishonest intention the coal was taken away out of the possession of another to prove the ingredients of Section 378 of the Indian Penal Code. It is further submitted by the Learned Counsel for the petitioner that Section 414 of the Indian Penal Code deals with the offence of assessing in concealment of stolen property. There is absolutely no evidence that any third person assisted the petitioners in concealing and disposing of or making away with the stolen property within the meaning of Section 414 of the Indian Penal Code.

The Learned Public Prosecutor-in-Charge has not come forward with the case diary. Therefore, it is to be ascertained as to whether the charge-sheet may be quashed under the provision of Section 482 of the Code of Criminal Procedure. In order to give reply to such question, it is important to see as to whether the facts and materials disclosed in Course of investigation constitute any cognizable offence or not. It is for the Court to further assess as to whether such prosecution

case on the basis of the materials in the case diary suffers from any latent illegality or inherent absurdity.

There is absolutely no material in the charge-sheet to prove that the seized coal was actually stolen by the petitioners. Therefore, on due consideration of the relevant facts and materials, this Court finds it difficult to brush aside the grievances ventilated on behalf of the petitioners and in absence of even *prima facie* material indicating that the coal seized in connection with the investigation of the present case was a stolen property within the meaning of Section 410 of the Indian Penal Code, there could be no jurisdiction for submitting charge-sheet under Section 414 of the Indian Penal Code against the petitioners.

For the reasons stated above, the present application being CRR 877/2009 is **allowed**. The Charge-sheet No. 98/2003 dated 30.12.2003 under Sections 414/34 of the Indian Penal Code and Sections 179/181/194/197 of the Motor Vehicles Act in Dadpur Police Station Case No. 27/2003 dated 30.04.2003 be quashed.

Let a copy of this order be sent to the Learned Court below for information and necessary action.

(**Bibek Chaudhuri, J.**)