

06.02.2023

CRR 923 of 2011

In the matter of : Dilip Kumar Agarwal

... Petitioner

Ms. Pranidhi Singh

... amicus curiae

Mr. Bidyut Kr. Roy

Ms. Sima Biswas

... for the State

Since none appears on behalf of the petitioner, Ms. Pranidhi Singh, learned Counsel being appointed as an *amicus curiae* has extended her cooperation towards helping the Court in disposing of the criminal revision.

This application under Section 482 of the Code of Criminal Procedure challenges the proceeding being C.R. No. 295 of 2008 dated 11th July, 2008 filed by a Beat Officer, M.P.P.-I Range Baikunthapur Division before the learned Chief Judicial Magistrate, Jalpaiguri under Sections 42, 65(A) of the Indian Forest Act, 1927 (State Amendment) read with Rule 4(i) (ii) (iii) of the West Bengal Forest Produce Transit Rules, 1959 and Section 3 of the P.D.P.P. Act, 1984.

Brief fact of the case is that, on 11th July, 2008, Shyamal Ch. Roy filed prosecution report before the learned Chief Judicial Magistrate, Jalpaiguri alleging inter alia that he had been to place of manufacturing of Katha (Khair) at Station Feeder Road, Siliguri in order to work out a source information and found one Jogesh

Pal who was manufacturing Katha (Khair). Being apprehended by the complainant, Jogesh Pal confessed that one Dilip Agarwal son of Sri Satya Narayan Agarwal of Station Feeder Road, Siliguri, is the owner of the forest product of Katha (Khair) who entrusted Jogesh Pal with the same to manufacture Katha (Khair) fifteen days back. In the prosecution report Dilip Agarwal has been depicted the kingpin of illegal trade. On 30th August, 2010, learned Chief Judicial Magistrate in Charge, Jalpaiguri was pleased to issue warrant of arrest against the petitioner after taking cognizance.

Challenging the said order this application has been filed by Dilip Kr. Agarwal.

Ms. Singh submits that Mr. Dilip Kumar Agarwal, the petitioner herein, is a lawyer by profession. Therefore, *prima facie*, there is no reason to hold that he has engaged himself with profession other than law in contravention of Advocates Act. This presumption, *prima facie*, takes sting out of the prosecution case.

It is further submitted that the petitioner has been implicated in the proceeding based on the statement of the co-accused persons, which is inadmissible in law.

It is also submitted that Mr. Dilip Kumar Agarwal, the petitioner, responded to the show-cause notice filed by Divisional Forest Officer, Baikunthapur Division and in his reply, he indicated that his elder brother Sib Kumar Agarwal is running a Gambier Unit. The Divisional Forest Officer in response to the declaration and prayer made by Sib Kumar Agarwal, brother of the

petitioner, informed that the department is not interested to interfere with the contention as made by Sib Kumar Agarwal since no case is recorded in his name.

True, it is Dilip Kumar Agarwal, the petitioner, has not been arrested from the spot. His name transpires from the statement of co-accused person, Jogesh Pal. It is equally correct that during enquiry before submitting prosecution report, nothing has been seized to show *prima facie*, the nexus between Dilip Kumar Agarwal and the forest products allegedly seized from the possession of Jogesh Pal.

Under such circumstances, after elapse of nearly fifteen years, I do not find any reason to allow the proceeding being C.R. No.295 of 2008 to continue till end of trial. To secure ends of justice, in my view, it is just to invoke the Section 482 of the Cr.P.C. to quash the proceeding being C.R. No.295 of 2008 pending before the Chief Judicial Magistrate, Jalpaiguri, which I accordingly do.

With this aforesaid observation, C.R.R. 923 of 2011 is disposed of.

Before parting with the matter I express my sincere thanks to Ms. Singh for her help in disposing of the criminal revision, as a friend of the court.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Siddhartha Roy Chowdhury, J.)