

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**W. P. (C) No. 2282 of 2014**

Md. Sarfraj, son of Md. Abdul Qaum, resident of Tilaiya Taad,  
 PO&PS-Chandwa, District-Latehar, Jharkhand

... .. Petitioner

*Versus*

1. State of Jharkhand
  2. Principal Secretary, Forest and Environment, Govt. of Jharkhand, PO and PS- Doranda, District-Ranchi
  3. Deputy Commissioner, Latehar,
  4. District Forest Officer cum Authorised Officer, Latehar
  5. Assistant Conservator of Forest, Latehar Forest Division, District-Latehar
- ... .. Respondents

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**CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR**

For the Petitioner	: Mr. B. K. Sinha, Advocate Mr. Saibal Mitra, Advocate
For the Respondents	: Mr. R. R. Mishra, G.P. II

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03/29.01.2016     Aggrieved by order dated 10.03.2014 in Revision  
 Petition No. 02 Ban Muk. (C)- 01 of 2013, the present writ  
 petition has been filed.

2.            Briefly stated, a First Information Report being  
 Herhanj P.S. Case No. 01 of 2011 was registered on 13.01.2011  
 under Sections 379, 411 and 120B IPC and under Section 33 of  
 the Forest Act against the petitioner and others on the allegation  
 that illegal coal was being transported on the truck bearing  
 no. BHM 6809, the owner of which is the petitioner. The  
 confiscation proceeding under section 52(4) of the Forest Act  
 was initiated in which the petitioner filed his reply denying  
 involvement of the truck in commission of a forest offence. Vide  
 order dated 19.01.2012 in Confiscation Case No. 02 of 2011, the

Authorised Officer-cum-Divisional Forest Officer, Latehar confiscated the seized truck. The Deputy Commissioner-cum-District Magistrate set-aside order dated 19.01.2012 on the ground that there are two contradictory reports of the forest officer and there is no independent witness to the occurrence. In Revision Petition No. 02 Ban Muk. (C)- 01 of 2013, the Principal Secretary, Department of Forest and Environment however, quashed the order passed by the appellate authority.

3. Heard the learned counsel for the parties and perused the documents on record.

4. The learned counsel for the petitioner submits that in view of two conflicting reports of the forest officer, the prosecution failed to conclusively establish that Dumartand is a protected forest. Moreover, the Circle Officer in his report dated 09.11.2012 found that Dumartand is a tola of village Chiru and, plot no. 5256 having area 211.02 acres is not in village Chiru. The learned counsel further submitted that as per challan no. 0228780 dated 07.01.2011, the truck proceeded with coal on 17.01.2011 from Sikani Coal Project but due to break down, the truck was standing for the period 07.01.2011 to 12.01.2011 thereafter, when truck was going to its destination it was seized by the police. Contending that there was no evidence that coal was illegally extracted from the reserved forest, the learned

counsel for the petitioner submits that the revisional order is liable to be quashed.

5. Supporting the impugned order dated 10.03.2014 in Revision Petition No. 02 Ban Muk. (C)-01 of 2013, the learned counsel for the respondents submits that Chiru Forest has been declared protected forest and the truck with loaded coal was coming from the Protected Forest Area.

6. Having considered the rival contentions raised on behalf of the parties and on perusal of the documents on record, I am of the opinion that the writ petition is liable to be dismissed. It was contended before the Authorised Officer that truck with coal proceeded from Sikani Coal Project but due to some break down truck was standing for the period 07.01.2011 to 12.01.2011 thereafter, when truck was going to its destination it was seized by the police, but no evidence has been produced by the petitioner in support of the alleged break down of the truck. The petitioner failed to produce evidence that the coal loaded in the truck was actually loaded at Sikani Coal Project. Mere production of the challan issued on 07.01.2011 is not sufficient to conclude that the coal loaded in the truck which was seized on 13.01.2011 was the coal loaded at Sikani. The plea based on two conflicting reports is also liable to be rejected. The reason for calling for a second report has been disclosed by the respondents. The forest officer in his report dated 27.07.2011

has reported that Chiru Forest is a protected forest. The fact that there is no independent witness to the occurrence would not discredit the evidence of the police witness. The finding recorded by the appellate authority that only the Mining Department can investigate the case though immaterial for the purpose for adjudicating the order passed by the authorised officer, is patently erroneous. The offence alleged against the petitioner is under Sections 379, 411 and 120(B) IPC. The police has rightly lodged a First Information Report. Moreover, registration of a case by the police and the outcome of the criminal case would not materially effect the outcome of the confiscation proceeding. Reliance placed by the learned counsel for the petitioner on the decision in “*Most. Dulia vs. State of Jharkhand & Ors.*” 2009 (1) JCR 22 (Jhr.) and “*Lalan Singh vs. State of Jharkhand & Ors.*” 2009 (2) JCR 533 (Jhr.) is misplaced.

7. I find no merit in the writ petition and accordingly, it is dismissed.

**(Shree Chandrashekhar, J.)**

Tanuj/-