

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Rev. No. 1239 of 2017

1. Umesh Kumar Tiwari.
2. Bishnudeo Prasad Singh.
3. Bellamin Tigga @ Belarmin Tigga.
4. Smt. Taruballa Hurd @ Smt. Tarubala Hurd.
5. Dr. Yogendra Kumar Sinha.Petitioners

Versus
The State of Jharkhand through VigilanceOpposite Party

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

For the Petitioners : Mr. J.P. Jha., Sr. Advocate
For the Vigilance : Mr. Shailesh Kr. Singh, Advocate.

02/31.10.2017 Heard the parties.

This application has been preferred by the petitioners for setting aside the order dated 22.6.2017, passed by the learned Special Judge, A.C.B., Ranchi in Special Case No. 23 of 2003, whereby and whereunder discharge application preferred by the petitioners has been rejected.

It has been submitted by the learned senior counsel for the petitioners that no criminality can be fastened upon the petitioners. It has further been submitted that petitioner nos. 1 to 4 are the petty employees in the Health Department whereas petitioner no. 5 was the then Civil Surgeon cum Chief Medical Officer, Ranchi. It has further been submitted that in terms of the letter of the government dated 7.9.2002, no committee had been constituted with respect to the purchase of medicines. It has also been submitted that the allegations against the petitioners are only with respect to the medicines purchased at a higher rate in violation of the rules framed by the Government. Learned counsel submits that this by itself cannot be said to be an offence so as to prosecute the petitioners. Learned counsel further submits that there was no occasion for preparing comparative chart of which learned counsel for the vigilance has mostly relied upon. Learned counsel also submits that the impugned order dated 22.6.2017 has not considered this aspect of the matter while refusing to discharge the petitioners.

Mr. Shailesh, learned counsel appearing for the Vigilance, on the other hand, has opposed the prayer made by the learned counsel for the petitioners and has submitted that this Court at this stage cannot look into the propriety of the order dated 22.6.2017, more so in view of the fact the order contains justifiable reasons for refusing

to discharge the petitioners for the offence alleged. Learned counsel submits that it was not only a question that medicines were supplied at a higher rate but in the manner it was purchased from the market, which caused a loss to the government and therefore on such consideration the impugned order dated 22.6.2017 is liable to be sustained.

Petitioner nos. 1, 2, 3 and 4 appear to be purchase clerk, head clerk, accountant, store keeper and Head clerk whereas petitioner no. 5 was the then Civil Surgeon cum Chief Medical Officer, Ranchi, during whose regime, medicines were purchased and which as per the allegations caused a loss to the Government as it was purchased flouting all the financial rules and the Government Regulations. It further appears that specific guidelines for purchase of medicines and medical equipment were issued by the Government but neither comparative chart was prepared and infact the purchase order was taken from the then Civil Surgeon in the name of such company but actually the entire transaction of supply of medicine and receiving its cheque for payment of price was also done by him. Similar facts seem to have surfaced with respect to accused –Binod Sharma who by taking authority letter obtained purchase order in the name of M/s SSPL, Kolkatta and by such back door entry he also supplied all the medicines at higher rate and obtained its payment. The Civil Surgeon cum Chief Medical Officer as well as other petitioners who were in some way either involved in the entire procedure or in procurement of the medicines cannot deny their liability in facing a criminal prosecution as *prima facie* there appears to be complicity of those petitioners also apart from the Civil Surgeon cum Chief Medical Officer who is one of the main accused who has been arrayed as petitioner no. 5 in the present application. The impugned order dated 22.6.2017 has considered all these aspects while refusing to discharge the petitioners and having found no irregularity or infirmity in the order dated 22.6.2017, I am not inclined to entertain this application, which is accordingly dismissed.

(Rongon Mukhopadhyay, J)

Rakesh/