

Amrit Lal Chum

Vs

Devoprasad Dutta Roy

(Criminal Appeal No. 368 of 1986)

Amrit Lal Chum

Vs

Debi Ranjan Jha and Another

Criminal Appeals Nos. 251-52 of 1986

(A. P. Sen, E. S. Venkataramiah, L. M. Sharma JJ)

20.01.1988

ORDER

1. After hearing Shri S. K. Kapoor, learned counsel appearing for respondent 1 in Criminal Appeals Nos. 251-252 of 1986 at quite some length, we are not persuaded to take a view different from the one expressed by this Court in the recent judgment in Baldev Krishna Sahi v. Shipping Corporation of India Ltd. ((1987) 4 SCC 361 : 1987 SCC (Cri) 750) overruling the judgment of the Calcutta High Court in Amritlal Chum v. Devi Ranjan Jha ((1987) 61 Com Cas 211 (Cal)) as to the scope and effect of sub-section (1) of section 630 of the Companies Act, 1956. The Court in Baldev Krishna Sahi case ((1987) 4 SCC 361 : 1987 SCC (Cri) 750) has placed a beneficent construction on the provisions contained in sub-section (1) of Section 630 of the Act and according to it the term 'officer or employee' in sub-section (1) of Section 630 must be interpreted to mean not only the present officers and employees of a company but also to include the past officers and employees of the company. It has also taken the view that the words 'any such property' in clause (b) thereof qualify the words 'any property of a company' appearing in clause (a). As observed in Baldev Krishna Sahi case ((1987) 4 SCC 361 : 1987 SCC (Cri) 750) Section 630 of the Act plainly makes it an offence if an officer or employee of a company who was permitted to use the property of the company during his employment, wrongfully retains or occupies the same after the termination of his employment. It is the wrongful withholding of such property, meaning the property of the company after termination of the employment, which is an offence under Section 630(1)(b) of the Act. The construction placed by this Court in Baldev Krishna Sahi case ((1987) 4 SCC 361 : 1987 SCC (Cri) 750) is the only construction possible. There is therefore no warrant to give a restrictive meaning to the term 'officer or employee' appearing in sub-section (1) of Section 630 of the Act as meaning only the existing officers and employees and not those whose employment have been terminated. The court in Baldev Krishna Sahi case ((1987) 4 SCC 361 : 1987 SCC (Cri) 750) has expressly overruled the judgment of the Calcutta High Court in Amritlal Chum v. Devi Ranjan Jha, against which these appeal have been filed and upheld the consistent view to the contrary taken by the High Court of Bombay in a series of case. See : Harkishin Lakhimal Gidwani v. Achyut Kashinath Wagh ((1982) 52 Com Cas 1 (Bom)) and Govind T. Jagtiani v. Sirajuddin S. Kazi ((1984) 56 Com Cas 329 (Bom)).

2. Accordingly, these appeals must succeed and are allowed with costs. The judgment of the High Court allowing the applications under Section 482 of the Code of Criminal Procedure, 1973 are set aside.

3. Shri S. K. Kapoor, learned counsel appearing respondent 1 in Criminal Appeals Nos. 251-252 of 1986 and Shri Parijat Sinha, learned counsel for respondent 1 in Criminal Appeal No. 368 of 1986 pray for time to vacate the premises in their occupation. We grant the respondents time till June 30, 1988 to vacate the premises subject to their furnishing the usual undertaking in this Court within four weeks from today. If there is a failure on the part of the respondents to comply with these conditions, namely, failure to file the said undertaking and/or to vacate the premises within the time allowed, the cases against them i.e. Complaint Case No. 1053/83 in the Court of Third Additional Judicial Magistrate, Alipore, 24 Parganas and Complaint Case No. 2788/84 in the Court of Special Divisional Judicial Magistrate, Alipore, 24 Parganas shall continue. In the event of respondents' failure to file the undertaking and/or vacate the premises within the time specified, the learned Magistrates shall proceed with the trial of these cases and dispose them of as expeditiously as possible and in any event, not later than October 31, 1988.

4. The intervention application filed by Tata Iron and Steel Company Limited is not pressed.

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