

Shiv Narayan Mahra and ors Vs. State of Jharkhand and anr

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Court : Jharkhand

Decided On : Aug-29-2013

Appellant : Shiv Narayan Mahra and ors

Respondent : State of Jharkhand and anr

Judgement :

In the High Court of Jharkhand at Ranchi Cr.M.P. No.986 o

1. Shiv Narayan Mahra 2. Awdhesh Mahra 3.Devnarayan Mahra 4. Rameshwar Mahra 5. Sanjay Kumar Mishra.....Petitioners VERSUS State of Jharkhand and anotherOpposite Parties CORAM: HONBLE MR. JUSTICE R.R.PRASAD For the Petitioners: Mr.Manoj Tandan For the State :A.P.P 7.29.8.13. The order dated 20.5.2011 passed in Madhupur P.S case no.65 of 2005 by the Sub-divisional Judicial Magistrate, Madhupur under which cognizance of the offence punishable under Section 364/34 of the Indian Penal Code has been taken against the petitioners is being sought to be quashed on the ground of mala fide as according to the petitioners the case has been lodged falsely for wreaking vengeance on account of the fact that the son of the informant was convicted in a case lodged by one of the petitioners. Mr.Tandan, learned counsel appearing for the petitioners submits that upon submission of the charge sheet on 22.10.2006, the court took up the matter on 14.11.2006 on which date an order was passed that the matter be posted for other day so that cognizance of the offence be taken but before the cognizance of the offence was taken by the court, the victim boy, who had been alleged to have been kidnapped, did appear and then the

Investigating Office got the statement of the victim boy recorded under Section 164 of the Code of Criminal Procedure on 28.5.2007. Thereupon after almost four years, supplementary charge sheet was submitted against the petitioners no.1 and 2 but the court took up cognizance of the offence against all the accused persons including the petitioners no.1 and 2, though nothing is there showing culpability on the part of the petitioners no.3, 4 and 5 and therefore, the order taking cognizance be quashed against all the accused persons particularly against the petitioners no.3, 4 and 5 after holding that the instant case has been filed for wreaking vengeance for the reason stated above. It is true that it has well been settled in a case of State of Haryana and others Vs.Bhajan Lal [1992 Supp (1) 335] that where a criminal proceeding is manifestly attended with mala fide with an ulterior motive for wreaking vengeance it can very well be quashed by the court in exercise of power as enshrined in Section 482 of the Code of Criminal Procedure. But here in this case when the police after recording the statement of the witnesses including the victim boy did find the allegation prima facie true it would not be desirable to quash the proceeding at its threshold. Accordingly, order taking cognizance never warrants to be interfered with. Accordingly, this application stands dismissed. (R.R.Prasad, J.) ND/

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