

Ranjan Deb Vs. The State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Aug-07-2017

Appellant : Ranjan Deb

Respondent : The State of Jharkhand and Anr

Advocate for Pet/Ap. : Mr. Delip Jerath

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. M.P. No. 178 of 2017 ----
, Ranjan Deb, Son of late Rabindra Kumar Deb, Resident of A-4 Indumati
Apartment, North Office Pada, Doranda, P.O. and P.S. Doranda, District-Ranchi.
.....Petitioner Versus 1. The State of Jharkhand.

2. Syed Mumtaz Ahmad, Resident of A/4, Jami Enclave, Jamia Nagar, Kadru, P.O.
Kadru, P.S. Argora, District-Ranchi. Opposite Parties ---- Coram: HON'BLE MR
JUSTICE RONGON MUKHOPADHYAY ----- For the Petitioner : Mr. Delip
Jerath, Advocate For the State : Mr. Sudhanshu Kumar Deo, APP For the O.P.
No. 2 : Mr. Shadab Eqbal, Advocate ----- 06/_7/08.2017 Heard the parties. In this
application, petitioner has prayed for quashing the entire criminal proceeding in
connection with Argora P.S. Case No. 04 of 2017 registered for the offence under
sections 406, 420 and 376(i) of the Indian Penal Code. An FIR was instituted by
the opposite party no. 2, in which it was stated that the informant who is a resident
of Kadru in the district of Ranchi was in jail custody in some false case from
12.8.2014 to 17.9.2016. It is alleged that when after his release he returned home

he found that his wife had withdrawn Rs. 54 lacs from their joint bank account . On being asked about the same, his wife refused to answer. It is alleged that his wife had spent Rs.34 lacs and had given rs.20 lacs to the petitioner on the terms that the petitioner will give her rs.40,000/- per month as interest. It is further alleged that money was taken by the petitioner on the pretext that petitioner is to open a new clinic at Patna. It has been stated that amount of Rs.20 lacs was given to the petitioner in installment. Further allegation has been levelled that the wife of the petitioner had been sexually abused several times by the petitioner at his house as well as in his clinic. The petitioner is also alleged to have sexually abused the wife of the petitioner in Maple Wood Hotel, Ranchi, where the petitioner had booked a room in the name of wife of the petitioner where she was sexually abused on 15.8.2015 and 17.7.2016. Informant further adds that in the third instance, the room was booked in the name of Guitar Teacher of the children of the informant. Further allegation has been levelled that photographs of the wife of the petitioner in a -2- compromising position were also taken. It has also been alleged that after the informant was released from jail custody, the petitioner had tried to sexually abuse his wife and when she refused, the petitioner threatened to upload the photographs in the internet. The informant had divulged that his wife was getting psychiatric treatment, which the petitioner knew. The wife of the informant was also being treated by the petitioner for some dental problem and taking advantage of mental condition of his wife, the petitioner had taken Rs.20 lacs and had also abused her sexually. Based on the aforesaid allegations, Argora P.S. Case No. 4/2017 was instituted for the offence under sections 406, 420 and 376(i) of the Indian Penal Code. Mr. Delip Jerath, learned counsel for the petitioner, has submitted that petitioner is a renowned dentist who annually pays income tax of a substantial amount. It has further been submitted that wife of the petitioner is also an Ortho Dentist and is a co-partner in the dental clinic of the petitioner. Learned counsel adds that no evidence has been brought on record by the informant with respect to the alleged amount of Rs.20 lacs being given to the petitioner. He adds that the informant himself is a man of dubious character as he was in custody for sexual abusing his domestic help for which Doranda Argora P.S. Case No. 465 of 2014 was instituted for the offence under section 376 of the Indian Penal Code and Section 4 of the POCSO Act. Learned counsel submits that the informant

himself having criminal history by instituting the FIR is trying to blackmail the petitioner to subjugation. Learned counsel further adds that no bank statement was given by the informant to substantiate his claim that the amount of Rs.20 lacs was withdrawn and given to the petitioner. No evidence has also been produced by the informant showing his wife as insane and is undergoing psychiatric treatment. Learned counsel submits while referring to the supplementary affidavit filed by him that in a recent development, the wife of the informant had come to the clinic and delivered two letters casting aspersion on the informant as well as expressing regret at the implication of the petitioner in a false case. Learned counsel therefore submits that since no materials have been collected by the Investigating Officer in order to substantiate the allegations levelled against the petitioner, continuation of the criminal proceedings as against him would be an -3- abuse of the process of court and in such circumstances therefore the entire criminal proceedings as against the petitioner deserves to be quashed and set aside. Mr. Shadab Eqbal, learned counsel for O.P. No. 2, on the other hand has opposed the prayer made by the petitioner and has stated that the investigation has resulted in collection of sufficient evidence against the petitioner to submit chargesheet. It has been submitted that although the informant was in jail custody in connection with Doranda Argora P.S. Case No. 465 of 2014 but he was acquitted in the said case vide judgment dated 17.9.2016. Learned counsel submits that the petitioner taking advantage of the mental condition of the wife of the informant, who was also under the treatment of the petitioner for some dental problem and by developing intimacy with the wife of the petitioner, the petitioner has sexually exploited her and had also taken an amount of Rs.20 lacs from her. Learned counsel submits that details of the amount which was withdrawn by the wife of the petitioner have been enumerated in the counter affidavit. Learned counsel further submits that since the petitioner happens to be an influential person of the City, investigation is being carried out in a perfunctory manner by the police. It has also been submitted that rooms were booked in Maple Wood Hotel, Ranchi but unfortunately CCTV Footage was not obtained. Learned counsel adds that FIR was lodged on 23.12.2016 and it was registered after ten days which shows that it was a deliberate attempt on the part of the investigating agency to weaken the prosecution case. Learned counsel further adds that if immediately on

submission of the written report, police had swung into action, CCTV Footage could have easily been obtained. Learned counsel submits that CCTV Footage, bank statement and call details have not been obtained by the police, which would further bolster the fact that the police were trying to shield the petitioner from being criminally prosecuted. Learned counsel therefore concludes by submitting that the Investigation is still going on and therefore it would premature to interfere in the investigation or to quash the criminal proceedings and since apparently a prima facie case is palpable from the facts and circumstances putforward by the informant, the present application is liable to be dismissed. Mr. Sudhanshu Kumar Deo, learned A.P.P., based on the -4- investigation carried out so far has stated that CCTV Footage could not be obtained as recording was old and had got automatically deleted. It has been stated that even the call detail report was tried to be obtained but with the efflux of time, call details were automatically deleted. Learned A.P.P. further submits that apart from wife of the informant, other witnesses in course of investigation had supported the prosecution case. He has further submitted that investigating agency had tried to get the statement of the wife of the informant recorded under section 164 Cr.P.C. but the same could not be done on account of refusal on the part of the informant. On consideration of the submissions advanced by the learned counsel for the respective parties, allegations levelled against the petitioner can be summed up by stating that he had taken an amount of Rs.20 lacs from the wife of the informant in absence of the informant and had sexually abused the wife of the informant on several occasions in his clinic, in his house as well as in Maple Wood Hotel, Ranchi. In order to appreciate the contention advanced by the learned counsel for the respective parties, the case diary, which was produced by the learned A.P.P., was perused. In the case diary, the statement of the wife of the informant, has been recorded at paragraph 6, in which she has stated that petitioner had sexually exploited her in his clinic as well as other places including Maple Wood Hotel, Ranchi. She has further stated as to how the room was booked in the hotel. She has further admitted that an amount of Rs.20 lacs was given to the petitioner as loan. Paragraph 8 contains the statement of Izma, daughter of the informant, who had disclosed that petitioner had come to their house as well as in Maple Wood Hotel, Ranchi to meet her mother. One of the witnesses namely Mantu Kumar Giri has

given his statement which is recorded in paragraph 13 of the case diary and he has stated that he had taken the wife of the informant and her children to the clinic as well as Maple Wood Hotel, Ranchi, where the wife of the informant had spent two nights. Paragraph 15 contains the statement of Arakshit Singh, who is a Guitar Teacher of the children and who has stated that room in Maple Wood Hotel, Ranchi were booked in his name. He has further stated that the petitioner had spent a night in the room with the wife of the informant. The compounder of the petitioner namely Vijay Prasad Singh was also examined which finds place at paragraph 56 of -5- the case diary who had stated that there was no money transaction between the petitioner and the wife of the informant. Investigation thus carried out so far reveals about the close intimacy, the petitioner was sharing with the wife of the informant and he had spent nights at Maple Wood Hotel, Ranchi along with her. There is consistent evidence regarding the intimacy, which the petitioner shared with the wife of the informant, which would further be apparent from the letters allegedly delivered at the clinic of the petitioner and which has been brought on record by filing a supplementary affidavit. The informant in his counter affidavit has given the details of the money transaction and the said contention being a part of the investigation would definitely be looked into by the Investigating Officer if the same has not already been gone into. There appears to be some varied claim as to whether the wife of the informant is undergoing psychiatric treatment or not but at this stage even if there is a finding to that effect, same cannot be a ground which would dilute the prosecution case. It is no doubt true that if the statement of the wife of the informant would have been recorded under section 164 Cr.P.C., picture would have slightly cleared instead of the allegations getting more murkier. The allegations which have been levelled against the petitioner appear to be prima facie true as could be deciphered from the materials collected so far in the investigation. Interference in the criminal proceeding, at this stage, when the investigation is still going on, by invoking inherent powers under section 482 Cr.P.C. would not be legally feasible in a proceeding under section 482 Cr.P.C. when an accused prays for quashing the entire criminal proceeding. The said prayer has to be considered with circumspection and caution. The primary issue in invoking inherent powers of this Court is that the materials produced by the accused were indubitable and

unflinching in nature, which would categorically and in clear terms rule out the charges made against an accused. At this stage, when the FIR has been instituted and investigation is still going on, invoking the powers under section 482 Cr.P.C. in the facts and circumstances narrated above, would be premature. As has been stated above, a prima facie case beyond doubt is made out against the petitioner and when the investigation is at its nascent stage, this Court is not inclined to accede to the prayer of the petitioner for quashing of the entire criminal proceedings and -6- accordingly having found no merit in this application, the same is hereby dismissed. Pending I.As, if any, stand disposed of. (Rongon Mukhopadhyay,J) Rakesh/

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