

Tiloka Devi Vs. The State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Dec-17-2014

Appellant : Tiloka Devi

Respondent : The State of Jharkhand and Anr

Advocate for Pet/Ap. : Mr. Shashikant

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. M.P. No. 590 of 2014
Tiloka Devi Petitioner Versus 1. The State of Jharkhand 2. Sugan Saha
Opposite Parties --- CORAM : HONBLE MR. JUSTICE RONGON
MUKHOPADHYAY --- For the Petitioner : Mr. Shashikant For the State : A. P. P.
For O.P. No. 2 : Mr. V. K. Tiwari --- Order No. 05 Dated 17th December , 2014
Heard Mr. Shashikant, learned counsel for the petitioner and Mr. V.K. Tiwari,
learned counsel for the opposite party No. 2 as also Mr. Shekhar Sinha, learned
counsel for the State. In the present criminal miscellaneous petition, the petitioner
has challenged the order dated 10.7.2009 passed by learned Additional Chief
Judicial Magistrate, Rajmahal in P.C.R. Case No. 79 of 2009 by which cognizance
for the offence u/s 506 of the Indian Penal Code (IPC) has been taken. The
prosecution story as it appears from the complaint petition which has been
instituted by the opposite party No. 2 is that the complainant went to the school
and asked for progress about the construction of the school building and also
made aspersions that the accused persons had misappropriated Rs. one lakh. The
complainant was threatened by the accused persons and the accused No. 3 and 4

had also assaulted him by means of fists and slaps. Learned counsel for the petitioner has submitted that in fact on 14.2.2009, a case was instituted by the present petitioner against the opposite party No. 2 that he was forcibly disturbing the school and demanding Rs. ten thousand as extortion money. The learned counsel further submitted that the petitioner is the Headmistress as well as the Secretary of the Village Education Committee of upgraded Primary School, Pilghutoo and the present case against her has been instituted as a counter blast to the earlier case which has been instituted by the petitioner. On this score, learned counsel has referred to a judgment in the case of Deo Lakhon Paswan v. State of Jharkhand & another reported in [2012(1) East Cr C271SC]. Mr. V. K. Tiwari, learned counsel for the opposite party No. 2 has submitted that from a perusal of the complaint petition instituted by the opposite party No. 2, there seems to be a specific allegation against 2. the petitioner of abusing the opposite party No. 2 and thus the ingredients of criminal intimidation has been made out against the petitioner. After considering the arguments of both the sides, I find that the present case has been instituted just after three days of lodging the case by the petitioner against the opposite party No.

2. From perusal of the complaint petition instituted by the opposite party No. 2, the allegation which has been levelled against the petitioner seems to be a fall out of the internal strife in relation to construction of the school building. In this context, it would be apt to refer to the judgment reported in [2012(1) East Cr C271SC] and Paragraph-11 of the said judgment reads thus:-

"1. After having categorically gone through the entire record and the evidence adduced for registration of the criminal Complaint against the Appellant, we have come to a conclusion that it was an afterthought, with an intention to harass the Appellant, who at the relevant point of time was holding the charge of Executive Engineer. Ultimately, it was this Appellant who had issued the order of reversion against the Complainant. Thus, the act of complainant taking recourse to the criminal action against the Appellant was malicious counter action against the Appellant. Even after critically examining it, we do not find any element of truth in the complaint lodged by him." Therefore, from a perusal of the allegation made in the earlier case and the allegation in the present case which has been instituted

against the petitioner, the same does appear to be a case filed by the opposite party No. 2 in order to counter the case filed by the petitioner and as such if the same is allowed to continue it would result in the abuse of process of law. At this juncture, Mr. V. K. Tiwari, learned counsel, appearing for the opposite party No. 2 has submitted that in the present case charge has also been framed and as such no interference is warranted u/s 482 of the Code of Criminal Procedure (Cr.P.C.). In this context, it would be just and proper to refer to the judgment in the case of Rajiv Thapar and others v. Madan Lal Kapoor reported in (2013) 3 SCC330 in which at Paragraph-29 it has been held as follows:-

"9. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 Cr PC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 Cr PC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecutions/complainants case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 Cr PC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience

of the High Court would persuade it to exercise its power under Section 482 Cr PC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice." Therefore, in my considered opinion, even if the charges have been framed, which is prior to commencement of the trial, the same does not preclude this Court from exercising its inherent powers u/s 482 Cr.P.C. Moreover, the assertions made in the complaint petition do not inspire confidence so as to continue with the criminal proceeding. Considering the totality of the facts and circumstances of the case, I do find that this is a fit case which warrants interference. Accordingly, the order dated 10.7.2009 passed by learned Additional Chief Judicial Magistrate, Rajmahal in P.C.R. Case No. 79 of 2009 by which cognizance for the offence u/s 506 of the Indian Penal Code (IPC) has been taken, is hereby quashed. This criminal miscellaneous petition is accordingly allowed. (RONGON MUKHOPADHYAY, J.) MK

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