

Amrendra Kumar Vs. the State of Bihar and ors.

Amrendra Kumar Vs. the State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/125070

Court : Patna

Decided On : Oct-03-2001

Judge : P.K. Deb, J.

Appeal No. : Cri.W.J.C. Nos. 190 and 313 of 2000

Appellant : Amrendra Kumar

Respondent : The State of Bihar and ors.

Advocate for Pet/Ap. : Mr. Yas Muni Singh

Disposition : Writ Petition Dismissed

Prior history : P.K. Deb, J. 1. Both these case are taken up together as the petitioners are the' same in both the cases and nature of grievances are also the same. 2. Hari ShankarGiri, respondent No. 1 in Cr. W.J.C. No. 313/2000 and Jaglal Giri respondent No. 2 in Cr. W.J.C. No. 190/2000 had filed two criminal case being Complaint Case No. 34/86 and Complaint Case No. 35/86 respectively alleging that although they did not take any loan from the Bihar State Co-operative land Development Bank, Patna of which t

Judgement :

P.K. Deb, J.

1. Both these case are taken up together as the petitioners are the' same in both the cases and nature of grievances are also the same.

2. Hari ShankarGiri, respondent No. 1 in Cr. W.J.C. No. 313/2000 and Jaglal Giri respondent No. 2 in Cr. W.J.C. No. 190/2000 had filed two criminal case being Complaint Case No. 34/86 and Complaint Case No. 35/86 respectively alleging that although they did not take any loan from the Bihar State Co-operative land Development Bank, Patna of which the petitioner was the Branch Manager but notices were issued to them for payment of instalments. According to the complaint case, the whole loan process was fake, manufactured and forged by the petitioner along with other accused persons for illegal gain of the amounts of loan and the cheques being entertained with forged signatures of the complainants. On the basis of such complaints Dighwara PS. Case No. 24/88 (G.R. No. 342/88) and G.R. No. 1902/90 were registered and that investigation proceeded. According to the petitioner salthough the case were lodged long back in the year 1986 but up till now no investigation has been done and the matter was continuing for more than a decade to the harassmt and both physical and mental torture of the petitioner and hence those criminal cases should be quashed,

3. It appears that originally the cases were being investigated by the district police but then the investigation was taken by the C.I.D., Co-operative Cell and when counter-affidavits were filed before the C.I.D., Co-operative Cell, it could be found that almost the investigations are complete and the delay was caused due to taking up of the report from the Forensic Laboratory and taking up of signatures of the complainants and ultimately it could be found that the petitioner was directly involved in the Ghapla of loan and all attempts were made to arrest him but he was found absconding and then prayer had been made for issuance of processes against him under Sections 82/83 of the Code of Criminal Procedure and only for arrest of the accused petitioner the petitioner could not be charge-sheeted.

4. Mr. Yas Muni Singh, learned Counsel for the petitioner by referring to a Division Bench judgment of this Court as reported in 1997(1) PUR 103 (R.K. Mandal and Ors. v. The State of Bihar) submits that when the criminal case is pending for 14 years then such long delay in concluding trial may cause prejudice besides

causing waste of public time and money and hence the investigations or the F.I.Rs. or the criminal proceedings in the above mentioned two cases should be quashed. The present cases do not come within the purview of the facts and circumstances of the reported case on the face of it. On factual aspect it is stated that the petitioner in no case can be emerging to have involved in such sort of forgery for grant of loan. It might be that his officers were responsible for doing all these things but when all documents and papers were placed before the petitioner than being the Branch Manager he has only sanctioned the loan, but during the course of investigation itself if could be found that the petitioner was directly involved in the crime. It further appears that not only those two cases but two more cases are pending against the petitioner and the trials were going on. In that way there is no scope of this Court under the writ jurisdiction to enter into the material aspect when after investigation it could be found that the petitioner was involved directly in the crime. Moreover, it appears that the petitioner is not coming with clean hands as he did not state that warrant of arrest was issued against him and that recently processes were there under Sections 82/83 of the Code of Criminal Procedure and as such the petitioner cannot be entitled to have any relief in these writ petitions. The writ petitions are dismissed having no force.