

Shailesh Kumar Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Feb-06-2015

Appellant : Shailesh Kumar

Respondent : State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr.M.P. No. 291 of 2002
----- Shailesh Kumar, S/o late Sudheshwari Prasad, Resident of Lohardaga Road, P.S. Gumla, District-Gumla ..Petitioner Versus The State of Jharkhand.
.Opposite Party ----- Coram: HONBLE MR JUSTICE RONGON MUKHOPADHYAY ----- For the Petitioner : Mr. P.P.N. Roy, Sr. Advocate For the Opposite Party : Mr. T.N. Verma, APP ----- C.A.V. On 15.1.2015 Pronounced on 6/2/2015 Heard Mr. P.P.N. Roy, learned senior counsel for the petitioner and Mr. T.N. Verma, learned counsel for the State. Since the opposite party no. 2 had died during pendency of this proceeding, as such vide order dated 17.1.2008, the name of the opposite party no. 2 was deleted from the cause title. In this application, the petitioner has prayed for quashing the entire criminal proceeding in connection with Gumla P.S. Case No. 243 of 2000 including the order dated 4.7.2001, whereby and whereunder cognizance has been taken for the offence under sections 420/467/468 of the Indian Penal Code and section 3 (V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. (The Act for short) The prosecution story, as would appear from the FIR instituted by one Ganesh Oraon, is to the effect that Plot No. 748, khata no. 357 in village Baraik in

the district of Gumla, area 2 decimals and plot no. 749 in the same khata, area 7 decimals, was recorded in the name of the informant's father namely late Lalu Oraon. It has been alleged that one Rajendra Prasad after preparing forged documents sold the land of the informant's father to the petitioner, who was the President of Chitragupt Maha Parivar. It was alleged therein that mutation of the land was done by the Circle Officer, Gumla and illegally a house was constructed over the said land by the petitioner as well as by Rajendra Prasad. It has further been alleged therein that the sale deed, which was prepared by Rajendra Prasad, had a signature of his father dated 6.5.1975, whereas the informant's father had already died in the year 1973, for which several letters were given by the informant to the Circle Officer but which did not yield any result and ultimately it led the informant to institute the present criminal case. -2- After investigation was conducted, the police having found the case to be true submitted chargesheet on 8.6.2001 for the offence under sections 420, 467 and 468 of the Indian Penal Code and section 3 (V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the petitioner and one Rajendra Prasad and thereafter vide order dated 4.7.2001 cognizance was taken by the learned Chief Judicial Magistrate, Gumla for the offences punishable under the aforesaid sections. Learned senior counsel for the petitioner submitted that no criminal liability can be fastened upon the petitioner in view of the fact that the petitioner is alleged to have purchased the land in the status of being the President of Chitragupt Maha Parivar from Rajendra Prasad, who is alleged to have purchased the same from the father of the informant. Therefore, even if the allegations are taken to be true, the same are against Rajendra Prasad and not against the present petitioner. Learned senior counsel for the petitioner has further stated that the allegation of the informant that the sale deed had the signature of his father on 6.5.1975 and that his father has already expired in the year 1973 is falsified from the fact that the order granting bail to Rajendra Prasad dated 14.12.2000 indicated that from the records, which were called for from the District Record Room, Gumla, it appears that father of the informant was a pension holder and had drawn pension till 8.6.1982. Learned senior counsel, thus, submits that in absence of any allegation against the petitioner, the entire criminal proceeding including the order taking cognizance is liable to be quashed. Learned counsel for

the State, on the other hand, has submitted that the allegations against the petitioner apart from attracting offences under the Indian Penal Code also comes within the provisions of section 3 (V) of the Act and whatever averments have been made by the petitioner, the same are matters of trial, which cannot be considered at this stage. After hearing the parties and after going through the records, it appears that the land recorded in the name of the father of the informant was purchased by Rajendra Prasad and the petitioner being the President of Chitragupt Maha Parivar had purchased the same from Rajendra Prasad. Therefore, admittedly it was not the petitioner who had purchased the land recorded in the name of the informant's -3- father and as such it cannot be said that it was the petitioner who had wrongfully dispossessed a member of a scheduled caste or scheduled tribe from his land or premises or had interfered with the enjoyment of his right over any land, premises or water so as to attract the provisions of section 3 (V) of the Act. The perusal of the written report also does not disclose any offence punishable under the provisions of the Indian Penal Code so far as the petitioner is concerned. The informant also appears to have filed an application for restoration of the land vide S.R. Case No. 104 of 1999-2000 on 2.12.1999 and although the learned counsel for the parties were not in a position to state about the status of the said restoration application, the same is all the more reason to discontinue with the criminal proceedings. After considering the entire materials, as discussed here in above, I find that continuation of the criminal proceeding against the petitioner would be an abuse of the process of the Court. This application is, therefore, allowed. The entire criminal proceeding in connection with Gumla P.S. Case No. 243 of 2000 including the order dated 4.7.2001, whereby and whereunder cognizance has been taken for the offence under sections 420/467/468 of the Indian Penal Code and section 3 (V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hereby quashed so far as it relates to the petitioner only. (Rongon Mukhopadhyay,J) Rakesh/