

Pramod Singh Vs. State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Mar-24-2015

Appellant : Pramod Singh

Respondent : State of Jharkhand and Anr

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(Cr.) No.394 of 2010
Pramod Singh Petitioner Versus 1. The State of Jharkhand 2. Shri Ratan Kumar . Respondents CORAM: HONBLE MR. JUSTICE H.C. MISHRA For the Petitioner : Mr. Indrajit Sinha For the State : J.C. to G.P. III For the Respondent No.2 : Mr. Sanjay Piprewall ----- 21/24.3.2015 Heard learned counsel for the petitioner and learned counsel for the State as also learned counsel for the Respondent No.2.

2. This is an unfortunate litigation between the two senior officers of the State Government. The Respondent No.2 filed a complaint before the Chief Judicial Magistrate, Ranchi, which was registered as complaint case No.135 of 2010, in which the petitioner and one Pankaj Tripathi, Press Reporter of the Daily Newspaper, Dainik Jagran, were made accused. The complainant respondent No.2, who was then posted as Dy. Secretary, Personnel, Administrative Reforms & Rajbhasha Department of the State Government, filed the complaint alleging inter alia, that the petitioner, who was posted as Dy. Secretary, Cabinet (Vigilance) Department of the State Government, had written a defamatory letter on 29.12.2009 to the Vigilance Commissioner, Jharkhand, Ranchi, with an intention to

tarnish and lower down the prestige of the complainant in the society and in the eyes of his superior officers. The copy of the said letter was also sent to the higher officials, including His Excellency, the Governor of Jharkhand. In the complaint petition, it is stated that in order to tarnish the reputation of the complainant, the petitioner made false accusation against the complainant of demanding Rupees three lacs for favouring him in a departmental matter and he also made some adverse remarks against the family background of the complainant. The contents of the said letter were also published in the Ranchi addition of Dainik Jagran dated 25.01.2010 and 26.1.2010 on the front page. Alleging that the actions of the accused persons had lowered down the prestige of the complainant in the society, the complaint was filed by the complainant in the Court below.

3. It appears from the record that the statement of the complainant was recorded on solemn affirmation, in which he supported the case and two witnesses were also examined in the enquiry stage, on the basis whereof, by order dated 13.8.2010, passed in Complaint Case No. 135 of 2010, the learned Chief Judicial Magistrate, Ranchi, has found the prima facie offence under Sections 500 and 501 of the IPC against the accused persons, including the petitioner, and process was issued against them. 2 4. In the backdrop of these facts, the petitioner has preferred this writ petition with a prayer for quashing the entire criminal proceeding in the said Complaint Case No.135 of 2010, including the order dated 13.8.2010 passed therein, by the learned Chief Judicial Magistrate, Ranchi.

5. The letter mentioned in the complaint petition has been brought on record by way of Annexure-5 to this writ application, which shows that it is actually a complaint made by the petitioner before the Vigilance Commissioner, Jharkhand, Ranchi. In the said complaint dated 29.12.2009, it is stated that in a PIL, this High Court had passed some directions for taking appropriate action against some officials, pursuant where to the respondent No.2, who was then posted as OSD to the Advisor to His Excellency, the Governor, had called the petitioner in his Chamber and had made the illegal demand of Rupees three lacs for exonerating the petitioner from the departmental action or from lodging the FIR against him. In the said complaint, there are also other allegations against the respondent No.2. Subsequently the contents of the said complaint were also published in the daily

newspaper Dainik Jagran, which have also been brought on record by way of annexures to this applications.

6. Learned counsel for the petitioner has submitted that the petitioner had only made complaint to the competent authority, i.e., Vigilance Commissioner, Jharkhand, relating to the illegalities done by the respondent No.2 and accordingly, it cannot be treated to be a case of defamation of the respondent No.2. Learned counsel has pointed out that the case of the petitioner is fully covered by Section 499 of IPC, Eighth Exception, which reads as follows:- Eighth Exception - Accusation preferred in good faith to authorised person. - It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation. It is submitted that since the petitioner has made the complaint to the lawful authority, the accusation made by the petitioner against the respondent No.2, cannot be treated to be a defamatory action. Learned counsel accordingly, submitted that the impugned order dated 13.8.2010, passed by the learned Chief Judicial Magistrate, Ranchi, in complaint Case No.135 of 2010, and the entire criminal proceeding against the petitioner therein, are absolutely vitiated and cannot be sustained in the eyes of law.

7. Learned counsel for the State as well as learned counsel for the respondent No.2, on the other hand, have opposed the prayer. Learned counsel for the respondent No.2 has pointed out from the record as well as from the complaint petition, that this Court passed a direction in W.P.(PIL) No.2721 of 2008 to the CBI to hold an inquiry and to submit report identifying the Officers who were directly involved in misappropriation, illegality and irregularities in distribution of food grains meant for poor people in the District of Palamau at Medninagar and 3 Hussainabad Anchal. Pursuant to the said direction, the CBI entered into an inquiry and a report was submitted before this Court, in which there were allegations against the petitioner also, who was then posted as SDO at Hussainabad. It is stated that pursuant to the direction of the Court, vide Notification No.8387 dated 26.12.2009, a departmental proceeding was initiated against the petitioner. Learned counsel has pointed out that this Notification was issued under the signature of the respondent No.2, who was then posted as

Secretary, Personnel, Administrative Reforms & Rajbhasha Department and when this notification was issued on 26.12.2009, the complaint was made before the Vigilance Commissioner, Ranchi, merely three days thereafter on 29.12.2009 making false and frivolous allegations against the respondent No.2 and the contents of the said complaint were also got published in the Newspaper. Learned counsel has pointed out that thereafter in the year 2010, the respondent No.2 was promoted to the IAS cadre and the respondent has also brought on record the Vigilance reports, which are dated 23.5.2013 and 4.8.2014, which clearly show that no vigilance matter was pending against the respondent. Learned counsel has submitted that the allegations were leveled against the respondent not in good faith, rather maliciously, and accordingly, the case of the petitioner shall not be covered by Eighth Exception of Section 499 of the IPC. As such, no case is made out for quashing the criminal proceeding against the petitioner. In support of his contention, learned counsel for the respondent No.2 has placed reliance upon a decision of the Hon'ble Supreme Court of India in M.A. Rumugam Vs. Kittu @ Krishnamoorthy, reported in 2009(1) East Cr C247SC, wherein the law has been laid down by the Apex Court as follows:-

15. For the purpose of bringing his case within the purview of the Eight and the Ninth Exception appended to Section 499 of the Indian Penal Code, it would be necessary for the appellant to prove good faith for the protection of the interests of the person making it or of any other person or for the public good.

16. It is now a well-settled principle of law that those who plead exception must prove it. The burden of proof that his action was bona fide would, thus, be on the appellant alone. Placing reliance on this decision, it is submitted that in the backdrop of the fact that the notification of departmental proceeding against the petitioner was issued under the signature of this respondent on 26.12.2009 and the complaint was made by the petitioner on 29.12.2009, relating to the period about three months earlier, at this stage it cannot be said, that the complaint was made in good faith, which has to be proved by the petitioner in the Court below. Learned counsel accordingly, opposed the prayer of quashing the criminal proceeding against the petitioner. 48. Having heard learned counsels for both the sides and upon going through the record, I find force in the submissions of the

learned counsel for the respondent No.2. It is apparent from the complaint petition as also the complaint lodged by the petitioner before the Vigilance Commissioner, that the notification putting the petitioner under the departmental proceeding was issued under the signature of the respondent No.2 on 26.12.2009 and thereafter the said complaint was made by the petitioner on 29.12.2009, in which there are serious allegations against the respondent No.2. It is also the fact that after lodging of this complaint, respondent No.2 was promoted to the IAS cadre and this promotion must have been granted to him after the vigilance clearance. Two vigilance reports, one of the year 2013 and another of the year 2014, have been brought on record, which show that no vigilance matter is pending against the petitioner. The complaint made by the petitioner against the respondent No.2 also shows that it relates to the period of about three months prior to the date of filing the complaint, which was filed soon after the issuance of the notification under the signature of the respondent No.2, putting the petitioner under the departmental proceeding. In the backdrop of these facts, whether the complaint made before the Vigilance Commissioner by the petitioner, is malicious one or was made in good faith, is itself a question, which has to be proved in the Court below, and the burden of proof that it was made in good faith, is on the petitioner. I am of the considered view that at this stage it cannot be held that the case of the petitioner comes within the purview of Eighth Exception of Section 499 of the IPC.

9. In view of the foregoing discussions, I find that no case is made out by the petitioner for any interference at this stage in the impugned order dated 13.8.2010 passed by the learned Chief Judicial Magistrate, Ranchi, in Complaint Case No. 135 of 2010, finding prima facie offence under Sections 500 and 501 of the IPC against the petitioner and the other co-accused, or for quashing the entire criminal proceeding against the petitioner in the said case.

10. There is no merit in this writ application and the same is accordingly, dismissed. (H. C. Mishra, J) R.Kumar