

Deo Kumar Paswan and ors. Vs. State of Jharkhand and anr.

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Court : Jharkhand

Decided On : Mar-18-2004

Reported in : 2004(2)BLJR1356; [2005(2)JCR418(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 420, 467, 468 and 505

Appeal No. : Cr. M.P. 804 of 2002

Appellant : Deo Kumar Paswan and ors.

Respondent : State of Jharkhand and anr.

Advocate for Def. : A.P.P.B.K. Sinha

Advocate for Pet/Ap. : B.K. Dubey and B.N. Tiwary

Disposition : Application allowed

Judgement :

M.Y. Eqbal, J.

1. Petitioners have filed the instant application under Section 482 of Cr PC for quashing the order dated 30.7.2002 by which the Judicial Magistrate, Chatra took cognizance of the offence under Sections 420, 467, 468 and 504 of the IPC against the petitioners in connection with Complaint Case No. 152/2002.

2. A copy of the complaint filed by complainant/opposite parties has been annexed as Annexure-1, to the application. In the said complaint, the complainant alleged inter alia that he and his wife are in physical possession of the land in question which is Gairmazarua land like other raiyati land and the same was approved for settlement after verification and report was sent by the Karamchari in favour of his wife and the settlement proceeding was going on. It is alleged that in the meantime petitioner approached the Circle Officer and tried to remit the said matter again to the Land Reforms Deputy Collector. The Complainant further alleged that the proceeding which was going on for settlement of land in favour of his wife, petitioner No. 2 pressed the Halka Karamchari to submit report in favour of petitioner No. 1, showing possession without giving intimation to the complainant. By all means petitioners succeeded in cancelling proposed Jamabandi to be allowed in favour of the wife of the complainant. It is further alleged that there was proceeding under Section 144, Cr PC which was initiated against between the petitioner and the complainant in which petitioner stated that land was already settled in favour of his father. In a nut shell allegation in the complainant is that the favour of his father. In a nut shell allegation in the complaint is that the Block Development Officer and the Circle Officer in connivance with petitioner No. 1 got the report submitted in favour of petitioner No. 1 for the settlement of land.

3. Heard learned counsel for the parties and examined the record. Prima facie it is apparent from the complaint petition that the complainant is aggrieved by the report submitted by the Revenue officer for the settlement of Gairmazarua land which is alleged to be in possession of the complainant. If the complainant is aggrieved by the said recommendation made by the Revenue officer to the Land Reforms Deputy Collector he has got statutory remedy available under the law. Merely because the report for settlement of land has been sent by the petitioners in favour of a person other than the complainant it cannot be presumed that officers have committed offence under Sections 420, 467, 468 and 505, IPC.

4. It is the case of the complainant that land dispute is going on by and between him and the petitioner No. 1 and there is dispute with regard to possession of the land. Admittedly, land belongs to the government being a Gairmazarua land. It is

well settled that judicial process should not be an instrument of oppression or intentional harassment. The Court should be cautious and judicious in exercising discretion and should take all the relevant facts and circumstances into consideration before issuing any process. Otherwise it would be an instrument in the hand of private complainant a vendetta to harass the person intentionally.

5. Taking into consideration the entire facts of the case, I am of the view that the intention of the complainant is mala fide and the allegations do not constitute offence. This application is, therefore, allowed and the entire proceeding and the order of cognizance are quashed.

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