

Veena Devi and Ors. Vs. State of Jharkhand and Anr.

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Court : Jharkhand

Decided On : Aug-31-2015

Appellant : Veena Devi and Ors.

Respondent : State of Jharkhand and Anr.

Judgement :

1 Criminal Misc. Petition No.1099 of 2006 ---- [An application filed under Section 482 of the Code of Criminal Procedure Code] --- 1. Veena Devi 2. Kedar Nath Choudhary 3. Smt. Shailbala Kiran Petitioners -Versus- 1. The State of Jharkhand 2. Shrawan Kumar . Opposite Parties For the Petitioners : Mr. P.P.N. Roy, Sr. Advocate For the State : APP PRESENT HONBLE MR. JUSTICE H.C. MISHRA ---- By Court: Heard learned counsel for the petitioners and learned counsel for the State. The complainant opposite party No.2 has not appeared in spite of publication of the notice in the newspaper, after the efforts of service of notice upon him through ordinary process and registered post, failed.

2. Petitioners are aggrieved by the order dated 16.6.2006 passed by Sri S.K. Das, learned Judicial Magistrate, 1st Class, Giridih, in complaint case No.376 of 2006, corresponding to T.R. No.1283 of 2006, whereby prima facie offence under Sections 498, 379, 497, 323 / 34 of the Indian Penal Code has been found against the petitioners and process has been ordered to be issued against them. Petitioners have also prayed for quashing the entire criminal proceeding against them in the said case.

3. The facts of the case lie in short compass. The petitioners are the wife, father-in-law and mother-in-law of the complainant. It is stated in the complainant that the petitioner Veena Devi is the legally wedded wife of the complainant and they have also a son aged about six years out of the said wedlock. The complainant noticed some changes in behaviour of his wife and he learnt that she was having illicit affairs with accused No.4, and in spite of prohibiting her to meet the said accused, she used to meet and live with him, which led to deterioration of health of the complainant. When the complainant complained about the behavioural changes of his wife to her parents, they also abused the complainant and it is alleged in the complaint petition that the petitioner Veena Devi came to the matrimonial house and taking her father-in-law in confidence, she withdrew Rs.1,30,605/- from the account of her father-in-law without his consent on 4.10.2005, and also took away some cash and jewelries from the house and started living with the accused No.4. There is also allegation that the accused persons also came to the house of the complainant on the occasion of Holi and started demanding the jewelries and belongings of the wife, whereupon the complainant replied that she had already taken away everything. It is alleged that thereafter, the accused persons started assaulting the complainant and upon alarm raised by the complainant, some persons came there and the accused persons fled away. With these allegations, the complaint case was filed by the complainant in the Court of the Chief Judicial Magistrate, Giridih, which was registered as complaint case No.376 of 2006. The statement of the complainant was recorded on solemn affirmation, wherein he supported his case, and in answer to the Court's question, he has replied that the accused had not lodged any case against him relating to dowry. He also examined three witnesses in the enquiry stage, on the basis of which prima facie offence as aforesaid has been found against the petitioners, which has been challenged in the petition.

4. It is submitted by the learned counsel for the petitioners that the petitioners have been falsely implicated in this case and in fact the petitioner No.1, who is the wife of the complainant opposite party No.2 has filed a criminal case against her husband and her in-laws for the offence under Section 498-A of the IPC, which was instituted as Kotwali (S) P.S. Case No.99 of 2006, and when the complainant-opposite party No.2 learnt about this criminal case, he has filed the complainant

case against the petitioners in the district of Giridih, with absolutely false and malicious allegations, in order to harass the petitioners. Placing reliance upon the decision of the Hon'ble Supreme Court of India in State of Haryana and Ors. Vs. Bhajan Lal and Ors., reported in 1992 Supp.(1) SCC335 learned counsel submitted that this is a fit case for quashing the entire criminal proceeding against the petitioners.

5. Learned counsel for the State on the other hand has opposed the prayer submitting that on the basis of the allegations made in the complaint petition, the statements of the complainant on solemn affirmation and of the witnesses examined in the enquiry stage, the offences are clearly made out against the petitioners and there is no illegality in the impugned order, and accordingly, there can be no interference in the criminal proceeding against the petitioners at this stage.

6. Having heard learned counsels for both the sides and upon going through the record, I find that the FIR was lodged by the petitioner Veena Devi against her husband and in-laws on 30.1.2006, which was registered as Kotwali (S) P.S. Case No.99 of 2006, where as the complaint case has been filed by the complainant opposite party No.2 on 29.3.2006. In the Bhajan Lal's case (supra), the Apex Court has laid down the categories of cases by way of illustration, in which extra ordinary power under Article 226 of the Constitution of India, or the inherent powers under Section 482 of the Code of Criminal Procedure, could be exercised by the High Courts for quashing the criminal cases, either to prevent the misuse of the process of Court or otherwise to secure the ends of justice, and one of those categories is as follows:- 3

102. ----- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

7. In the present case, I find that the complaint case has been instituted against the petitioners by the complainant-opposite party No.2 after the FIR was lodged against him by the petitioner Veena Devi, and in my considered view, the same

has been filed with false and malicious allegations, only to wreak vengeance against the petitioners with a view to spite them due to the personal grudge of lodging the FIR against him and his family members by his wife, with whom he was having strained matrimonial relations. Though it is alleged that the petitioner Veena Devi came to the matrimonial house and taking her father-in-law in confidence, she withdrew Rs.1,30,605/- from the account of her father-in-law without his consent on 4.10.2005, and also took away some cash and jewelries from the house, but the fact remains that no case was filed against the petitioner No.1 for the alleged occurrence of 4.10.2005, either by her father-in-law or by the O.P. No.2. This apart, in reply to the Court's question, the O.P. No.2 had given an apparently false reply that the accused had not lodged any case against him relating to dowry. These facts clearly show that the present complaint has been filed with absolutely false and malicious allegations, only to wreak vengeance against the petitioners due to lodging the FIR against him and his family members by his wife. In the facts of this case, I am of the considered view that this a fit case for exercising the inherent power under Section 482 of the Code of Criminal Procedure, for quashing the entire criminal proceedings against the petitioners for preventing the abuse of the process of Court.

8. In view of the aforementioned discussions, the impugned order dated 16.6.2006 passed by Sri S.K. Das, learned Judicial Magistrate, 1 st Class, Giridih, in complaint case No. 376 of 2006, corresponding to T.R. No.1283 of 2006, as also the entire criminal proceeding against the petitioners in the said complaint case, are hereby, quashed. This application is accordingly, allowed. (H.C.MISHRA, J.) Jharkhand High Court, Ranchi Dated 28th August, 2015 R.Kumar/N.A.F.R.

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