

Ravi Toppo Vs. The State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Nov-24-2016

Appellant : Ravi Toppo

Respondent : The State of Jharkhand and Anr

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr.M.P. No. 597 of 2016
Ravi Toppo, son of Soman Toppo, Residence of Village - Nagri, P.O. - Bukru, P.S.
- Kanke, District - Ranchi. ... Petitioner -V e r s u s -

1. The State of Jharkhand

2. Ram Prasad Sahu, son of not known, I.O. Of Kanke P.S. Case No. 168 of 2012,
Kanke P.S., District - Ranchi. Opposite Parties CORAM: - HONBLE MR.
JUSTICE DR. S.N.PATHAK For the Petitioner : Mr. Amit Kumar, Advocate. For the
State : APP0524.11.2016 Heard the parties.

2. This Cr.M.P. has been filed with a prayer to quash/ set aside the order taking
cognizance dated 18.11.2013, passed by Judicial Magistrate, Ranchi as also the
entire criminal proceeding including F.I.R. in connection with Kanke P.S. Case No.
168 of 2012 corresponding to G.R. No. 5950 of 2012.

3. The facts in brief is that on 31/01.11.2012 at night, the informant Arbind
Sharma, ASI of Kanke Police Station was on night duty along with some other
police persons of the said Police Station. At about 5:00 a.m., the officer in charge of

Kanke Police Station called the informant by mobile phone and gave an order to go Central Law University to know about the situation. On compliance of said order, the informant along with some other police persons reached at Kanke - Pithoria Ring Road by the use of police vehicle. When the informant reached there, he saw approx 100 women and men have been destroying the boundary wall of Central Law University. The informant stopped the vehicle and came down from the vehicle and asked from the mob as to what they were doing. Thereafter the mob armed with Lathi, Danda, Farsha etc. attacked over the informant and the vehicle by the use of weapon. Ravi Toppo (petitioner) attacked over the informant by means of Farsa. He further attacked with Farsa over the vehicle and destroyed glass of the vehicle causing injury to the driver of the vehicle. 2 The informant and the driver any how saved themselves and immediately informed about the incident to the officer in charge of Kanke Police Station by mobile phone. However, before coming to the police force, the mob fled away from the place.

4. Learned counsel appearing for the petitioner submits that there is no material available on record and only because of misconception of name he is facing the criminal proceeding. It is further submitted that petitioner is Soman Toppo and his father's name is Soman Toppo and in support thereof he has already produced his own Marks Sheet, Voter I.D. and other documents as also PAN Card, Bank Statements and other documents of his father whereas name of the accused in the F.I.R. reflects as Ravi Toppo son of Panday Toppo. Further the Chargesheet reflects name of accused as Ravi Toppo @ Panday Toppo, son of Chunnu Toppo. Further, in the Case Diary at para 28, name of accused is written as Ravi Toppo and Suraj Toppo, both son of Chhannu Toppo. Thus, in the entire records such as FIR, Case Diary and the Chargesheet are contradictory so far name of petitioner's father is concerned. It is also pointed out that even after order passed by learned Judicial Commissioner, Ranchi no report has been submitted either by the Investigating Officer or the learned Public Prosecutor. It is pointed out by learned counsel that due to confusion the petitioner has been implicated in the instant case though there are other Ravi Toppo also in the same locality. Petitioner is a student and his career may be ruined due to false implication in the instant case.

5. On the other hand learned counsel appearing for the State has opposed the prayer and submitted that grounds taken for quashing of the impugned order as also entire F.I.R. are not tenable. It is pointed out that after submission of chargesheet and considering materials available on record, the learned court below has already taken cognizance of the offence against the accused/ petitioner.

6. I have gone through the rival submission of the parties as well as documents available on record. No ground of malicious prosecution or vengeance has been brought on record nor the petitioner has been able to discard prima facie materials against him. The Apex Court in the case of *Amanullah v. State of Bihar* (2016) 6 SCC (Cri.) 551 in paragraph 25 has held as under: 25. A careful reading of the material placed on record reveals that the learned CJM took cognizance of the offences alleged against the accused persons after a perusal of the case diary, chargesheet and other material placed before the court. The cognizance was taken, as a prima facie case was made out against the accused persons. It is well settled that at the stage of taking cognizance, the court should not get into the merits of the case made out by the police, in the chargesheet filed by them, with a view to calculate the success rate of prosecution in that particular case. At this stage, the court's duty is limited to extent of finding out whether from the material placed before it, the offence alleged therein against the accused is made out or not with a view to proceed to further with the case.

26. The proposition of law relating to Section 482 Cr PC has been elaborately dealt with by this Court in *Bhajan Lal* case. The relevant paras 102 and 103 of which read thus:

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised

and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima face constitute any offence or make out a case against the accused. (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code. (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused. 4 (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code. (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party. (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. 103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of the rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice. 7. In the circumstances and discussions made above, I do not find any merit in this Cr.M.P. and accordingly, same stands dismissed. The trial court is at liberty to proceed

further in accordance with law. Petitioner is also at liberty to raise all such points at the appropriate time. (Dr. S.N. Pathak, J.) RC

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