

B.C.Suchanti. Vs. the State of Bihar, and anr.

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Court : Patna

Decided On : Jul-07-2010

Judge : Rakesh Kumar, J.

Acts : Code of Criminal Procedure (CrPC) - Section 482

Appeal No. : Criminal Miscellaneous No.24823 OF 1998

Appellant : B.C.Suchanti.

Respondent : The State of Bihar, and anr.

Advocate for Def. : Mrs.Indu Bala Pandey, Adv.

Advocate for Pet/Ap. : M/S Shravan Kumar; Dinesh Maharaj; Rajiv Nayan Singh; Satish Kumar Singh, Adv.

Judgement :

1. Rakesh Kumar,J. Learned counsel for the petitioner files supplementary affidavit enclosing therewith copy of charge sheet. Keep it on record.
2. The sole petitioner, while invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, has prayed for quashing of an order dated 10.8.1998 as well as for quashing of entire criminal proceeding in G.R. No.342 of 1996/Tr. No.36 of 1998 pending before the Judicial Magistrate, Ist Class, Nalanda arising out of Warsaliganj P.S. Case No.30 of 1986. By order dated 10.8.1998, the learned Magistrate has rejected the petition filed on behalf of

the petitioner for his discharge.

3. Shri Shravan Kumar learned Senior Counsel appearing on behalf of the petitioner, while pressing the present petition, submits that it is true that in the complaint petition, the petitioner was arrayed as one of the accused and that complaint was subsequently referred to the police for its investigation. The police, after conducting thorough investigation, did not recommend for putting the petitioner on trial. However, charge sheet was submitted against remaining two accused persons. It was submitted that though at the time of charge, the petitioner had filed a discharge petition taking several grounds, the learned Magistrate, without considering the points raised in the discharge petition in a mechanical manner, has rejected the discharge petition by its order dated 10.8.1998. It was further submitted that the petitioner was Assistant Manager in the New India Assurance Company Ltd. and he had no role to play in the alleged occurrence and, accordingly, the police did not recommend him for facing trial. On the aforesaid grounds, learned Senior Counsel has prayed for quashing of impugned order as well as quashing of entire prosecution so far as it relates to the petitioner.

4. Mrs. Indu Bala Pandey, learned Additional Public Prosecutor, has appeared on behalf of the State and opposed the prayer of the petitioner. It was submitted by her that though the petitioner was not sent up for trial by the police, the learned Magistrate was well competent to differ with the recommendation and, accordingly, the learned Magistrate had taken cognizance of the offence even against the petitioner long back on 20.8.1987. She further submits that in the order of rejection of discharge, there is no defect and, accordingly, the petition is required to be rejected.

5. Besides hearing learned counsel for the parties, I have also perused the materials available on record. In the complaint petition, there was specific assertion of the complainant that all the accused persons had committed fraud against the complainant. It was specifically mentioned by the complainant that he had made payment of premium through cash and thereafter, there was no occasion to reject the claim of the petitioner on the alleged ground that his cheque was dis-honoured. In the complaint petition, there is specific assertion against all

the accused persons including the petitioner. Moreover, in this case, order of cognizance was passed long back in the year 1987 and only with a view to delay the commencement of the trial, a petition for discharge was filed after about 11 years from the date of order of cognizance.

6. I have perused the order of rejection of discharge petition. At the time of rejection of discharge petition, there was no requirement to assign a detailed reason. However, the learned Magistrate, after examining the materials, has rejected the prayer for discharge of the petitioner.

7. I do not find any defect either in the order of cognizance or in the order of rejection of discharge petition. Accordingly, the petition stands rejected.

8. Keeping in view the fact that in this case, F.I.R. was lodged in the year 1986 and the case is still at the stage of charge, it is necessary to direct the court below to proceed with the case expeditiously without granting any un-necessary adjournment.

9. With above observation and direction, the petition stands rejected.

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