

Pramod Kumar. Vs. State of Bihar, and anr.

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Court : Patna

Decided On : Jul-19-2010

Judge : Anjana Prakash, J.

Acts : Indian Penal Code (IPC) - Sections 448, 452, 375, 504, 322

Appeal No. : CRIMINAL MISCELLANIOUS No.16471 OF 2004

Appellant : Pramod Kumar.

Respondent : State of Bihar, and anr.

Advocate for Def. : Miss.Asha Devi, Adv.

Advocate for Pet/Ap. : Mr. Pramod Kumar, Adv.

Judgement :

1. The petitioner seeks quashing of the entire proceedings including the order dated 2.4.2004 passed in Complaint Case No. 118 (C) of 2004 by which cognizance has been taken for offence under Sections 448, 452, 375 and 504 of the Indian Penal Code.
2. By an order dated 20.9.2004, the opposite party no. 2 was noticed and, thereafter on 18.5.2005, the matter was admitted for hearing with an interim order of stay of further proceedings in the court below.
3. Today, neither of the parties is present in the Court.

4. However, on going through the records of the case, I find that the background of the case is that on 13.2.2004 a clash between two groups of students had taken place, so to bring the situation under control, the police chased the miscreants in course of which one boy fell down but tried to intimidate the Police Officers stating that he was son of a Judicial Officer for which Danapur P.S. Case No. 79 of 2004 dated 13.2.2004 had been instituted. On 18.2.2004 the miscreants repeated some antisocial activities due to which the petitioner, who was the Officer-in-Charge, Danapur, instituted Danapur P.S. Case No. 86 of 2004 dated 18.2.2004. Thereafter, on 19.2.2004, the opposite party no. 2 instituted a case stating therein that her son had been brutally assaulted by the petitioner and others after committing house trespass in her absence and, therefore, he was criminally liable. The matter was brought to the notice of this Court vide Or. Cr. Misc. 5 of 2004 which was heard by a Division Bench and on 27.2.2004. After hearing the parties, an adverse comment had been made on the failure of the police to institute a case on the intimation furnished by the opposite party no. 2, but, no positive order was passed except that the matter should proceed in accordance with law.

5. In the meanwhile, it appears that the City S.P. made an enquiry into the matter and he found the version of the petitioner to be correct.

6. Considering that there are enough documents to show that the petitioner in discharge of his official duty had acted in a manner only to control law and order situation, in my view, no offence under Sections 448, 452, 322 and 504 of the Indian Penal Code would be made out.

7. Accordingly, this application is allowed and the entire proceeding including the order dated 2.4.2004 passed by Sri Manoj Kumar Tiwary, Judicial Magistrate, 1st Class, Danapur, in Complaint Case No. 118(C) of 2004 as against the petitioner, is hereby quashed.

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