

Samrendra Singh, and anr. Vs. State of Bihar, and anr.

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Court : Patna

Decided On : Aug-30-2010

Judge : Rakesh Kumar, J.

Acts : Code of Criminal Procedure (CrPC) - Sections 482, 397(3); Indian Penal Code (IPC) - Sections 466, 468, 471, 419, 420, 467, 469

Appeal No. : CRIMINAL MISCELLANEOUS No.7210 OF 2002

Appellant : Samrendra Singh, and anr.

Respondent : State of Bihar, and anr.

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

Advocate for Pet/Ap. : M/S Pushkar narain Shahi; Patanjali Rishi; Mr. Rakesh Kumar, Advs.

Judgement :

1. Two petitioners, while invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, have prayed for quashing of entire proceeding in connection with Trial No.1183 of 1999 arising out of Complaint Case No.581-C of 1997 pending in the court of Shri P.N. Rai, Judicial Magistrate, Ist Class, Bettiah, West Champaran including the order dated 20th June,1999. By the said order, the learned Magistrate has taken cognizance of offence under Sections 466, 468 and 471 of the Indian Penal Code. The petitioners have also prayed for setting aside the order dated 4.9.2000 passed by the learned Sessions Judge,

West Champaran at Bettiah in Cr. Revision No.86 of 2000. By the said order, revision preferred against the order of cognizance was rejected.

2. Short fact of the case is that opposite party no.2 had filed a complaint in the court of Chief Judicial Magistrate, West Champaran at Bettiah alleging therein that both the petitioners had committed offences under sections 419, 420, 466, 467, 468, 469 and 471 of the Indian Penal Code. It was alleged that from time to time, the accused persons had forged signature of one Krishna Prasad Singh, who was full brother of petitioners and number of proceedings were got initiated against the complainant. After filing the complaint petition, the complainant was examined on S.A. and in support of the complainant's case, three witnesses were examined, who supported the case and thereafter, by order dated 20.6.1999, the learned Magistrate took cognizance of the offence as stated above.

3. Aggrieved with the order of cognizance, the petitioners preferred a revision, which was numbered as Cr. Revision No.197 of 1999 and was admitted. Thereafter, due to non prosecution on several dates, the revision petition was rejected. After rejection of Cr. Revision No.197 of 1999, the petitioners preferred second revision, which was registered as Cr. Revision No.86 of 2000. The learned Sessions Judge examined the materials on record and by order dated 4.9.2000 dismissed the revision petition. One of the main ground for rejection of revision petition was that second revision was not maintainable under Section 397(3) of the Code of Criminal Procedure.

4. Against rejection of Cr. Revision No.86 of 2000, by its order dated 4.9.2000 passed by learned Sessions Judge, the petitioners approached this Court by filing the present petition. On 1.10.2002, while issuing notice to opposite party no.2, this Court directed that in the meantime, further proceeding in Trial No.1183 of 1999 (arising out of Complaint Case No.581-C of 1997) pending in the court of Judicial Magistrate, Ist Class, Bettiah, West Champaran shall remain stayed. Subsequently, on 24.1.2003, the petition was admitted and Lower Court Record was called for. It was further directed that interim order of stay dated 1.10.2002 shall continue. The order of stay is still continuing.

5. Learned counsel for the petitioners had mainly argued that the learned Sessions Judge had committed error by holding that second revision petition was not maintainable. It was submitted that since earlier Cr. Revision i.e. Cr. Revision No.197 of 1999 was rejected due to non prosecution, second revision was maintainable. In some and substance, it was submitted that matter may be remitted back to the learned Sessions Judge for re- hearing of Cr. Revision No.86 of 2000.

6. Learned counsel appearing on behalf of opposite party no.2, Shri Rakesh Kumar has vehemently opposed the prayer of the petitioners. Learned counsel for opposite party no.2 has argued that there is no error in the order of cognizance. It was submitted that before passing the order of cognizance, the learned Magistrate had conducted enquiry and after being fully satisfied on the basis of evidence of three enquiry witnesses, complainant's statement on S.A. as well as material available in the complaint petition has rightly passed the order of cognizance. It was submitted that this Court may examine the order of cognizance. It was submitted that since there is no error in the order of cognizance, there is no point for remitting back the matter to the revisional court. It was submitted that once the order of cognizance is approved, there would be no necessity to pass order in respect of the order passed by the revisional court.

7. Besides hearing learned counsel for the parties, I have also perused the materials available on record particularly order dated 30.6.1999. After going through the record, the court is satisfied that while passing the impugned order of cognizance, the learned Magistrate had committed no error. This Court feels that petitioners have not made out an exceptional case warranting exercise of inherent jurisdiction in their favour.

8. Accordingly, I do not find any merit in the present petition. The petition stands rejected.

9. In view of rejection of this petition, interim order of stay stands automatically vacated. 10, Office is directed to remit back the Lower Court Record forthwith along with copy of this order.

11. Keeping in view the fact that the matter has remained pending for a long time, it is desirable to direct the lower court to proceed with the case expeditiously and conclude the same without any delay.

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

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