

Arbind Kumar Singh and Others Vs. the State of Jharkhand and Another

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Court : Jharkhand

Decided On : Nov-19-2011

Reported in : 2012CrLJ300(NOC)

Judge : The Honourable Chief Justice Mr. Prakash Tatia

Appeal No. : W.P. (CR.) NO. 17 OF 2009

Appellant : Arbind Kumar Singh and Others

Respondent : The State of Jharkhand and Another

Judgement :

1. Heard learned counsel for the parties.
2. The present writ petition has been filed for quashing of the entire criminal proceeding against the petitioners being C.P. Case No. 1103/2007 including the order dated 07.07.2008 passed by the learned Judicial Magistrate, 1st Class, Dhanbad taking cognizance against the petitioners under Section 323/342 I.P.C.
3. Learned counsel for the petitioners submitted that the complainant-respondent as well as his witness Md. Mustkim, both have criminal antecedent and are accused in criminal cases which are being investigated by the petitioner No. 1 because he is a Sub-Inspector in the Railway Protection Force. It is submitted that without any reason, only with an ill motive and enmity, a complaint case has been filed but it will appear from the allegation leveled in the complaint itself that in fact

no criminal case is made out from the facts mentioned in the complaint and if any inference of criminality may be drawn from the facts stated in the complaint, then that has been wiped out by the statement of the complainant himself who even did not state on oath before the court what he alleged in the complaint, therefore, the trial court appears to have taken cognizance of the offence without application of mind as well as the order of taking cognizance is a non-speaking order which is apparent from the impugned order itself.

4. Learned counsel for the respondent submitted that the scope in writ jurisdiction with respect to the criminal proceeding is limited one and if an allegation, levelled in the complaint, discloses commission of the offence, then in that situation, the criminal proceeding cannot be quashed.

5. From the allegation levelled in the complaint, copy of which has been placed on record as Annexure-1, it appears that complainant's case was that he was giving milk to the petitioner and when he demanded consideration for the milk, he was tied up and was given beating and, thereafter, he was put under the lock in the police station. In the complaint he gave the name of his witness who was present on 3rd July, 2007 before whom he demanded the due money for the milk and at that time, according to complainant, the petitioner No. 1 pushed the complainant and also gave beating. Then it has been alleged that thereafter the accused Arbind Kumar Singh and Ram Pratap Singh tied up the complainant and told them that they will be sent to jail and they were kept in jail. It is submitted that because of the intervention of the villagers and the witness, they were released on 5th July, 2007. On the basis of this, complaint for commission of offence under Sections 323/342/365/386/406 I.P.C. has been lodged.

6. I perused the statement of the complainant who, in his statement, only stated that he used to give milk to the petitioner and when he demanded the money for the milk, he was told that money will be paid in next month. When he again went to recover the value of the milk, he was again asked to come in the next month and thereafter, when again he went to demand the money, he was locked in the office. It is then stated that under fear he is supplying milk to the petitioner and even after demanding he is not giving the money and he has lodged the criminal case

against the petitioner.

7. From the statement of the complainant as well as the complaint itself, it appears that it is a matter with respect to the alleged demand of money by the complainant from the writ petitioner and in that situation, he has leveled allegations which appear to be very vague as well as highly improbable and unbelievable. The allegations which have been levelled in the complaint, have not been stated in his statement and there are material omission in the statement as well as the statement does not constitute any offence of criminal nature, therefore, in fact it is nothing but abuse of process of court if the proceeding of the criminal case continued.

8. It appears from the impugned order taking cognizance by the court below dated 07.07.2008 that only order has been passed is that court is satisfied from the material that a case is made out under Section 323/342 I.P.C. Against the accused persons irrespective of the fact that whether the names have been given by the complainant in the statement or not.

9. In view of the above, the writ petition deserves to be allowed, hence allowed. The order dated 07.07.2008 and proceedings in connection with C.P. Case No. 1103/2007, both are quashed.

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