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Court : Patna

Decided On : Dec-14-2011

Judge : Rajendra Kumar Mishra, J.

Appeal No. : Criminal Miscellaneous No. 52724 of 2008

Appellant : Mantu Singh @ Mantu Kumar Singh and Others

Respondent : The State of Bihar

Judgement :

1. The petitioners have approached this Court under Section 482 of the Code of Criminal Procedure for quashing the order dated 20.1.2007 passed by the Chief Judicial Magistrate, Bhojpur at Arrah, in Arrah Nawada P.S. Case No.203 of 2001, taking cognizance of the offences under Sections 447, 341, 323, 504 and 427/34 of the Indian Penal Code against the six accused, named in the F.I.R., including the petitioners and also the order dated 14.8.2008 passed by the Sessions Judge, Bhojpur at Arrah, dismissing the Criminal Revision No.81 of 2008, as preferred by the accused, named in the F.I.R., including the petitioners, against the aforesaid cognizance order dated 20.1.2007.

2. The brief facts, leading to this application, are that on the basis of the written report of one Yogendra Kumar Jain, Arrah Nawada P.S. Case No.203 of 2001 was instituted on 11.11.2001 against the six accused including the petitioners for the offences under Sections 447, 341, 323, 504 and 427/34 of the Indian Penal Code

regarding the occurrence of 11.11.2001. The police on investigation submitted the chargesheet under the aforesaid Sections. Thereafter, the Chief Judicial Magistrate, Bhojpur at Arrah, on perusal of the chargesheet and the case diary took the cognizance of the offences under Sections 447, 341, 323, 504 and 427/34 of the Indian Penal Code by the order dated 20.1.2007.

Being aggrieved and dissatisfied with the aforesaid order dated 20.1.2007, the accused including the petitioners preferred the Criminal Revision No.81 of 2008 before the Sessions Judge, Bhojpur at Arrah, which was dismissed by the Sessions Judge, Bhojpur at Arrah vide order dated 14.8.2008 on the ground of filing the aforesaid Criminal Revision beyond limitation period.

3. Learned counsel appearing on behalf of the petitioners made sole submission that out of the offences under Sections 447, 341, 323, 504 and 427/34 of the Indian Penal Code, for the offences under Sections 427 and 504 of the Indian Penal Code, the maximum punishment is of two years. According to Section 468(2)(C) of the Code of Criminal Procedure, the limitation period of taking cognizance for the said offence is only three years from the date of the occurrence, but the Chief Judicial Magistrate, Bhojpur at Arrah, by the order dated 20.1.2007 has taken the cognizance of the offences under the aforesaid Sections after about five years to the date of occurrence, i.e., 11.11.2001. As such, the order dated 20.1.2007 taking the cognizance of offences is barred by Section 468(2)(C) of the Code of Criminal Procedure. In support of the aforesaid submission, learned counsel appearing on behalf of the petitioners placed reliance on a decision of a Bench of this Court in the case of Savita Devi Vs. The State of Bihar and Another {2010(3) PLJR 491}.

4. In the case of Savita Devi (supra), as relied upon by the learned counsel appearing on behalf of the petitioners, a Bench of this Court while quashing the cognizance order held in paragraph nos.4 and 5 as under:

“4. Obviously, the scope of that section and the interpretation of the section has to be in accordance with the language of the section. It cannot be held by the Court that it would be reckoned from the date of the submission of the chargesheet or for that matter, the date of filing of the complaint and it cannot be read to mean that

the limitation is with respect to the filing of a case, thereby meaning that the case is with respect to an offence punishable with fine only, it should be filed within six months from the date of commission of the offence. Such a reasoning is not envisaged under Section 468 of the Code of Criminal Procedure and as such it has to be set aside. The purpose of introducing limitation is to prevent abuse of the process of law and preventing criminal cases from being filed as an afterthought and on the whims and fancy of a person. 5. In the present case, the offences are punishable under Sections 341, 323 and 504 of the Indian Penal Code. The punishment under Section 341 of the Indian Penal Code is simple imprisonment for one month or fine of Rs.500/- or both. The punishment under Section 323 of the Indian Penal Code is one year or fine of Rs.1,000/- or both while the punishment under Section 504 of the Indian Penal Code is imprisonment for two years or fine or both. Therefore, I find that this case is squarely covered by Sections 468 and 469 of the Code of Criminal procedure.”

5. In the case of *Japani Sahoo Vs. Chandra Sekhar Mohanty* {(2007)7 Supreme Court Cases 394}, the Hon^{ble} Apex Court held that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a court, overruling all decisions in which it has been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/court and not of filing of complaint or initiation of criminal proceedings.

6. It appears from perusal of the F.I.R. of Arrah Nawada P.S. Case No.203 of 2001, Annexure-„1?to this application that on the basis of the written report of one Yogendra Kumar Jain, the aforesaid P.S. case was instituted on 11.11.2001 under Sections 447, 341, 323, 504 and 427/34 of the Indian Penal Code regarding the occurrence alleged to have taken place on the same day, i.e., 11.11.2001. The Chief Judicial Magistrate, Bhojpur at Arrah, on perusal of the case diary and the chargesheet took the cognizance of the offence under Sections 447, 341, 323, 504 and 427/34 of the Indian Penal Code against the accused, named in the F.I.R., including the petitioners through the impugned order dated 20.1.2007. It also appears that the Criminal Revision as preferred by the accused including the

petitioners against the aforesaid order dated 20.1.2007 before the Sessions Judge, Bhojpur at Arrah, bearing Criminal Revision No.81 of 2008 has also been dismissed by the Sessions Judge, Bhojpur at Arrah vide order dated 14.8.2008 on the ground of filing the same beyond the limitation period. In view of the law laid down by the Hon?ble Apex Court in the case of Japani Sahoo (supra), the limitation period, specified under Section 468 of the Code of Criminal Procedure, for taking the cognizance by the Magistrate/court is to be read with reference to the lodging of the complaint or F.I.R. and not the date when the cognizance is taken.

7. Under the aforesaid facts and the circumstances of the case, I find no illegality in the cognizance order dated 20.1.2007 passed by the Chief Judicial Magistrate, Bhojpur at Arrah in Arrah Nawada P.S. Case No.203 of 2001 and in the order dated 14.8.2008 passed by the Sessions Judge, Bhojpur at Arrah in Criminal Revision No.81 of 2008, as preferred by the accused including the petitioners against the cognizance order dated 20.1.2007, amounting to abuse of the process of the court.

8. Accordingly, this application, being devoid of merit, is dismissed.

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