

Ashok Chandra Chaudhary Vs. the State of Bihar

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Court : Patna

Decided On : May-11-2012

Appellant : Ashok Chandra Chaudhary

Respondent : The State of Bihar

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Miscellaneous No.1512 of 2012 Ashok Chandra Chaudhary son of Sri Satyadeo Chaudhary, resident of Bengali Tola, Laheriasarai, P.S-Laheriasarai, District- Darbhanga. Versus The State Of Bihar ----- 2. 11.1.2012. Heard learned counsel for the petitioner and learned counsel for the State. The petitioner seeks anticipatory bail in connection with a case registered under sections 419, 420, 467, 471 and 379/34 of the Indian Penal Code. The Officer Incharge, Rahika Police Station is the informant of the present case. It is stated in the written report dated 9.9.2010 that services of old railway line of Raiyam Sugar Factory from village Raiyam to Mokdampur was stopped due to closure of the mill but the tracks were in existence at same place. The informant received several letters of government officials in this regard. As per prosecution case, Raiyam Mokdampur train line was the property of Raiyam Sugar Company. M/s Raiyam Sugar Company by sale agreement dated 15.12.1972 transferred the train line and other properties of the mill to M/s Tirhut Co- operative Sugar Factory Limited. Later on, the said Sugar Company was taken over by the Government of Bihar in 1976. In the light of the order passed by the Calcutta High Court M/s Nataji Industrial Works Ltd, Calcutta, requested the Government for granting no objection certificate for dismantling train

line in question. The said application was forwarded to the Managing 2 Director, Bihar State Sugar Corporation for appropriate direction. The State Government took a decision to file a restoration petition in the Calcutta High Court and accordingly, an application for restoration and limitation was filed in the Calcutta High Court but the matter was sub judice before the Calcutta High Court. The General Manager, Raiyam unit through his letter dated 1.9.2010 informed that the said train line was being dismantled by some persons. The property in question belongs to Bihar State Sugar Corporation and hence a request was made that till an appropriate order is passed by the Calcutta High Court and no objection certificate is issued by the Managing Director, Bihar State Sugar Corporation Limited status quo be maintained. The informant alleges that the petitioner and others caused damage to the abandoned rail track at some places and removed the same causing pecuniary loss. The informant, Officer Incharge, after instituting the case on his own written statement entrusted the investigation to another police officer. Learned counsel for the petitioner states that the first information report is misconceived on facts. The property in question is not the property of Bihar State Sugar Corporation Limited. The Government of Bihar had taken over the property in 1972 and handed over the management to M/s Tirhut Co-operative Sugar Factory Limited. M/s Tirhut Co-operative Sugar factory Limited was amalgamated in the Bihar State Sugar Corporation Limited. The then North Bihar Sugar Mills Limited had sold the said rail line with all its accessories to Netaji Industrial Works 3 Belliatore, Bankura in the year 1970 itself i.e. two years prior to taking over of the Mill by Government. M/s Netaji Industrial Works Belliatore, Bankura tried to dismantle the rail/tram line but for one reason or the other it could not succeed. Thereafter, M/s Netaji Industrial Works Belliatore, Bankura filed a case being C.O. No.5410(W) of 1991 in the Calcutta High Court and on 7.5.1993 an order was passed in favour of the purchaser. The purchaser faced hurdle in dismantling rail/tram line and, thus, it had to approach the High Court at Calcutta by filing a contempt petition. The High Court at Calcutta passed an order on 18.8.1993 in favour of the purchaser and gave it liberty to take delivery of railway line, its accessories and fittings after necessary dismantling. Pursuant to the order dated 7.5.1993 the then S.P., Madhubani had directed the Officer Incharge, Bisfy/Rahika vide letter no.22196 dated 30.6.1993 to give protection in the work of M/s Netaji

Industrial Works Belliatore, Bankura, West Bengal. Subsequently, the said Netaji Industrial Works Belliatore, Bankura sold the property to the petitioner by agreement of sale dated 5.8.2010 which has been annexed as annexure-7 to this petition. The petitioner had purchased the entire material of railway line in question at a cost of Rs.16,11,001/-. After entering into sale agreement with Netaji Industrial Works Belliatore, Bankura, the petitioner started dismantling of railway/tram line and kept the dismantled property to a safe place. Thus, it is submitted that the entire allegation is based on misconceived facts. No offence as alleged is made out against the petitioner. The dispute, if any, is at best a dispute of civil nature. To the contrary, learned counsel for the State submits that there are several letters of different authorities which makes out a prima facie case against the petitioner for causing loss to the mill concerned. The matter is sub judice in the Calcutta High Court and, thus, the petitioner ought not have dismantled the property in question till the final decision of the case. Call for a carbon copy of the case diary of Rahika P.S. Case No. 160 of 2010 from the court of learned C.J.M., Madhubani and put up the case immediately after receipt of the same. In the meantime, in the event of arrest or surrender the petitioner shall be released on provisional bail till further orders on furnishing bail bonds of Rs.25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Madhubani in connection with Rahika P.S. Case No.160 of 2010 subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure and also that one of the bailors must be a regular government servant. Md.S. (Ashwani Kumar Singh, J.)

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