(2012) 09 PAT CK 0078

In the Patna High Court

Case No : CWJC No. 1160 of 2011

Arti Devi APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:
Penal Code, 1860 (IPC) — Section 406, 420, 467, 468, 471

Citation : (2013) 2 PLJR 719

Hon'ble Judges : Shailesh Kumar Sinha, J

Bench : Single Bench

Advocate : Prem Kumar Jha, Rajesh Kumar Jha and Nishant Kumar Jha, for the Appellant; Dilip Kumar for the State, Sharad Kumar Sinha and Amit Kumar Anand for the Respondents, for the Respondent

Final Decision : Disposed Off

Judgement

Shailesh Kumar Sinha, J.—Heard learned counsel for the petitioner, learned Assistant Counsel to Government Advocate No. 7 appearing for the respondent nos. 1, 4 & 7 as also the learned counsel appearing for the respondent nos. 2, 3, 5 & 6. Today no one appears on behalf of the respondent no. 8. In this writ application the challenge is to the letter no. 223/10 dated 3rd of February, 2010 (Annexure-8) issued by the respondent no. 7, whereby the Superintendent of Post Office, Saharsa Division, Saharsa was requested not to allow the petitioner to make withdrawal from any of the postal account within Saharsa district since the petitioner is alleged to have withdrawn certain amount by fraudulent means leading to registration of Saharsa Sadar Police Station Case No. 496 of 2009 (Annexure-3) for the alleged offence under Sections 420 /467 /468 /471 /406 of the Indian Penal Code. In the said case the petitioner is a named accused.

2. On behalf of the petitioner it is submitted that the postal accounts as mentioned in paragraph 5 of the writ application at Saharsa Bazar Post Office, Saharsa are in no way connected with the alleged fraudulent withdrawal of the proceeds of the two fixed deposits in question for which the aforesaid criminal

case was lodged against the two persons including the petitioner. It is submitted that notwithstanding the fact that the aforesaid accounts as mentioned in paragraph 5 of the writ application are not connected with the alleged withdrawals from the aforesaid term deposits as find mention in the aforesaid criminal case. As a matter of fact, even those amount have not been withdrawn and the same is still intact which also finds reference in the order dated 23.2.2010 passed by this Court while granting bail to the co-accused of the said criminal case vide Annexure-4 of the writ application. Besides, the petitioner has categorically stated in reply to the counter affidavit that the alleged amount of two term deposits of rupees forty thousands each is still not withdrawn and the fixed deposit is being renewed from time to time. It is accordingly submitted that the petitioner being a widow is being unduly harassed at the instance of the respondent no. 8 and the Investigating Officer of the aforesaid criminal case without verifying the fact that the aforesaid five accounts are not connected with the alleged withdrawal for which the aforesaid criminal case was registered, issued the letter dated 3rd February, 2011 as contained in Annexure-8 requesting the Superintendent of Post Office not to allow withdrawal from any of the accounts in Saharsa district, and as such, the same deserves to be quashed.

3. Learned counsel appearing for the Postal Department submits that the petitioner is not being allowed to operate the aforesaid accounts on account of the letter issued by the Investigating Officer as contained in Annexure-8.

4. Learned counsel appearing for the State submits that the petitioner withdrew the proceeds of two term deposits of rupees forty thousands each fraudulently and got a joint account opened in her name with the step-daughter, Sapna Kumari so that she could withdraw the amount at her own convenience. However, from the counter affidavit, learned counsel for the State, could not show that the accounts as mentioned in paragraph 5 of the writ application are in any manner connected with the alleged withdrawal for which the criminal case was lodged.

5. Considering the submissions of the parties and their respective pleadings, it would appear that the accounts as mentioned in paragraph 5 of the writ application have not been allowed to be operated by the respondent Postal Department for having a letter (Annexure-8) received from the Investigating Officer of the aforementioned criminal case. However, on perusal of the first information report it would appear that the aforesaid criminal case was lodged for the alleged withdrawal of two term deposits of rupees forty thousands each, and as such, these accounts as mentioned in paragraph 5 of the writ application is not connected with the aforesaid withdrawal. Moreover, it has been categorically stated on behalf of the petitioner that the aforesaid alleged withdrawal of two term deposits of rupees forty thousands each is still not withdrawn and the same is in the post office which is being renewed from time to time.

6. In the above circumstances, I am of the opinion that the letter no. 223/10

dated 3rd February, 2010 as contained in Annexure-8 issued by the respondent no. 7 requesting the respondent no. 5 not to allow withdrawal is not justified in law. It is accordingly quashed. It will be open for the petitioner to operate the postal accounts as mentioned in paragraph 5 of the writ application which would be allowed by the respondent nos. 5 & 6 as per the extant rules with respect to such withdrawals. The writ application is accordingly disposed of with the above observations/directions.

