
(2015) 02 JH CK 0165

In the Jharkhand High Court

Case No : Criminal Misc. Petition No. 200 of 2002

Ashok Kumar Singh and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-02-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 465, 504

Citation : (2015) 3 CCR 61 : (2015) 2 JLJR 248

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Sanjay Kumar Dwivedi, for the Appellant

Final Decision : Allowed

Judgement

Rongon Mukhopadhyay, J.—Heard Mr. S.K Dwivedi, learned counsel for the petitioner. No one appears on behalf of the opposite party No. 2 in spite of valid service of notice.

2. In this application the petitioner has prayed for quashing the entire criminal proceedings in connection with Complaint Case No. C1-728 of 2000 including order dated 16.1.2001 passed by the learned Judicial Magistrate, Jamshedpur whereby and whereunder cognizance has been taken for the offence punishable under Sections 465 and 504 of the Indian Penal Code.

3. The allegation, which would appear from the complaint petition, is that the father of the complainant was a subscriber to mobile number 9835179520. It has been stated in the complaint petition, that after the death of the complainant's father, SIM of the mobile was surrendered and the petitioners had assured the complainant that the security deposit shall be refunded. In spite of such assurance, the security deposit was not refunded rather the bills were being sent regularly. It has further been alleged that a legal notice was served upon M/s. Reliance Telecom Limited by the complainant with respect to the modes for payment of the security deposit, but in spite of his best efforts for refund of the

security deposit, the same was not refunded and the complainant was heckled and insulted which ultimately resulted in filing of the complaint case i.e. C1-728 of 2000.

4. After examining the complainant on solemn affirmation as well as his witnesses, cognizance was taken on 16.1.2001 by the learned Judicial Magistrate, Jamshedpur for the offence punishable under Sections 465 and 504 of the Indian Penal Code.

5. It has been submitted by the learned counsel for the petitioners that the entire allegations in the complaint petition reveal that the complainant-opposite party No. 2 was aggrieved with the services rendered by the Reliance Telecom Limited. There is no criminal element in the present case so as to implicate the petitioners. He has further submitted that the ingredients of Sections 465 and 504 of the Indian Penal Code are lacking. The dispute seems to be with respect to the non-refund of the security deposit and in fact the complainant was advised on behalf of the Reliance Telecom Limited as to the documents which are to be submitted in order to get the refund of the security deposit. Learned counsel for the petitioners have submitted that the legal notice was served on 13.5.2000. He has referred to the judgment in the case of B.R. Meena v. Mangal Das Chiman Lal Barot and Another [1987 (Supp.) SCC 597] as well as Pepsi Foods Ltd. and Another Vs. Special Judicial Magistrate and Others, AIR 1998 SC 128 : (1998) CriLJ 1 : (1997) 8 JT 705 : (1997) 6 SCALE 610 : (1998) 5 SCC 749 : (1997) 5 SCR 13 Supp .

6. After hearing the learned counsel for the petitioners and after going through the records, I find that the entire dispute revolves around the non-payment of security deposit to the tune of Rs. 3,000/-, which the complainant had claimed-on the surrender of the SIM of the mobile, which was being used by his father. It has not been stated that as to how the petitioners had committed an illegal act so as to implicate them in the present case. The dispute as has been rightly pointed out by the learned counsel for the petitioners is with respect to the services rendered by the Reliance Telecom Limited of which the petitioners are its officials and if the complainant had any grievance, the proper remedy for him was to move the consumer forum but instead he has chosen to prosecute the petitioner in a criminal proceeding. The basic ingredients of Sections 465 and 504 of the Indian Penal Code are lacking in the entire complaint petition and continuation of the criminal proceedings will be abuse of the process of court. In the case of B.R. Meena v. Mangal Das Chiman Lal Barot and Another (supra) while considering the ingredients of Section 504 of the Indian Penal Code, it was held that the essential requirements of Section 504 of the Indian Penal Code are that the accused must, intentionally insult and such insult must give provocation to any person and further that he must have the requisite knowledge that such provocation will result in breach of public peace or commission of any other offence. It was further held that the mere utterance of abusive words without more does not constitute an offence under the section. So far as Section 465 is

concerned, it is an admitted position that with respect to the document referred to in the complaint petition, it has nowhere been alleged that the petitioners had committed forgery so as to attract Section 465 of the Indian Penal Code. Even otherwise, the entire dispute revolves around the services rendered by the Reliance Telecom Limited to which the complainant was not satisfied leading him to file the present case. After considering the entire factual aspects and in view what has been discussed above, I find merits in this application. Accordingly, this application is allowed. Consequently, the entire criminal proceedings in connection with Complaint Case No. C1-728 of 2000 including order dated 16.1.2001 passed by the learned Judicial Magistrate, Jamshedpur whereby and whereunder cognizance has been taken for the offence punishable under Sections 465 and 504 of the Indian Penal Code is, hereby, quashed.