
(2008) 09 JH CK 0112
In the Jharkhand High Court

Baldeo Rabidas

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-09-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 147, 323, 379
Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 — Section 3, 4

Citation : (2008) 09 JH CK 0112

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties.

The informant is the petitioner in this case and he has prayed for quashing of the order dated 30/11/2002, passed by the Special Judge; S.C./S.T. (Prevention of Atrocities) Act, Koderma in connection with Markachcho P.S. Case No. 19/1996, rejecting the prayer of the Special P.P., i.e. the prosecution for sending the case for reinvestigation

2. The relevant facts, in short, are that the petitioner lodged a F.I.R. against the accused persons, the private opposite parties herein alleging therein that on 07/05/1996 in the evening, while the petitioner and other villagers were deliberating about the Harizan Samiti, the accused persons came with Lathi and started assaulting them saying that "Sala Harizan Log Netagiri Kar Raha Hai". When the Mohalla people came there, the accused persons fled away.

The FIR was registered under Sections 147, 323, 379 IPC and Section 3/4 of the SC/ST (Prevention of Atrocities) Act. The investigation of the case was taken up by the Sub-Inspector of Police, who after completion of the investigation submitted charge sheet on the basis of which the cognizance taken and,

thereafter, the charges were framed under the aforesaid Sections of the Indian Penal Code as well as under SC/ST (Prevention of Atrocities) Act. The trial proceeded and, thereafter, the case reached to the stage of final argument.

At that stage a petition was filed by the Special P.P. purported to be u/s 156(3) of the Code of Criminal Procedure, praying therein to direct for reinvestigation of the case, mainly on the ground that the Officer, who had investigated the said case was not competent to investigate the case for the offence under SC/ST (Prevention of Atrocities) Act because for the offence under SC/ST (Prevention of Atrocities) Act, only an officer not below the rank of Dy.S.P. can investigate the case and, therefore, the whole trial based on defective investigation has vitiated.

3. From the impugned order I find that the learned Special Judge, after considering the relevant provisions of SC/ST (Prevention of Atrocities) Act and the rules, rejected the prayer of the prosecution to send the case for reinvestigation. However, he observed that the said illegality should have been pointed out at the stage of taking cognizance or at the stage of framing of the charge. However, the Special Judge after discharging the accused persons for the offences under the SC/ST (Prevention of Atrocities) Act sent back the case to the Chief Judicial Magistrate for transferring the case to a competent court for trial for the offences under the Indian Penal Code only.

4. Mr. Akhil Kumar Sinha, learned Counsel appearing for the petitioner submitted that the learned Special Judge should have directed for reinvestigation of the case in view of the fact that the investigation of the case under SC/ST (Prevention of Atrocities) Act was done by a Sub-Inspector only, who is an officer below the rank of Dy. S.P. The rejection of the prayer of the petitioner, according to the learned Counsel for the petitioner, shall greatly prejudice the prosecution.

5. It is not disputed that the trial of the case was at its lag end and this point was raised by the informant at the stage of argument. The learned Special Judge has rightly held that if at this stage the case is sent for reinvestigation it would prejudice the defence and would cause great hardship and inconvenience. The learned Special Judge rightly discharged the accused persons from the offence u/s 3/4 of the SC/ST (Prevention of Atrocities) Act and remanded the matter back to the Chief Judicial Magistrate for transferring the case to a competent court for trial for the offences under the Indian Penal Code.

6. I do not see any illegality or irregularities in the impugned order.

7. Accordingly, having found no merit, this petition is dismissed.

8. The trial court is directed to dispose of the case finally as early as possible preferably within a period of two months from the date of receipt/production of a copy of this order.