
(2014) 05 JH CK 0056
In the Jharkhand High Court
Case No : Cr. M.P. No. 1532 of 2012

Baski Nath Rawani

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 07-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 203
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(i)(v)(x)

Citation : (2014) 3 JLJR 524

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Mahesh Tewari, Advocate for the Appellant; Pravin Kr. Rana,
Advocate for the Respondent

Judgement

Rakesh Ranjan Prasad, J.—Heard the parties. This application has been filed for quashing of the entire proceeding of Complaint Case No. 790 of 2010, including the order dated 25.5.2012, whereby and whereunder cognizance of the offence punishable under Section 3(i)(v)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, has been taken against the petitioners.

2. Mr. Tewari, learned counsel appearing for the petitioners submits that with respect to same allegation, which is the subject matter of the present complaint, earlier the complainant had lodged a complaint case bearing Complaint Case No. 423 of 2006. The Court, having made inquiry, dismissed the said complaint under Section 203 Cr.P.C. on 1.12.2006. Against that order the complainant had preferred a criminal revision bearing Cr. Revision No. 372 of 2006, which also got dismissed on 18.4.2009. Since, the said complaint case was dismissed, the complainant again lodged the present complaint in the year 2010, basically on the same allegation, which was there in complaint, filed earlier vide Complaint Case No. 423 of 2006 and, thereby, the second complaint cannot be maintained and, hence, the order taking cognizance is fit to be quashed.

3. In this respect, learned counsel further submits that in fact, the Magistrate, after holding inquiry, had also dismissed the present complaint. Against that order, revision had been preferred before the revisional court and the revisional court set aside the order and remanded the matter back to the Court concerned and, thereupon, the Court has taken cognizance of the offence punishable under Section 3(i)(v)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, which the Court should not have taken for the reason that for the same set of allegation, earlier a complaint was filed, which had been dismissed.

4. As against this, learned counsel appearing for O.P. No. 2 submits that it is not correct on the part of the petitioners to say that on the same set of allegation, the present complainant has been lodged, rather the earlier complaint had been lodged on altogether different allegation and, hence, the present complaint can easily be maintained and, thereby, the Court has rightly taken cognizance of the offence.

5. Having heard counsel appearing for the parties and on perusal of the records, I do find that earlier a complaint case was lodged, wherein date of occurrence is said to be 17.1.2006, on which date it has been alleged that the petitioners did abuse the complainant to dishonour her prestige and also pushed her, whereas in the present complaint date on which the complainant seems to have been abused though, has never been there but on going through the entire case of the complainant, it appears to be different. Under the circumstances, it cannot be said at this stage that prima facie it does appear that second complaint has been lodged on the same allegation, which was there in the first complaint. Accordingly, I do not find any illegality with the order taking cognizance and, hence, this application stands dismissed.