
(2003) 06 JH CK 0085

In the Jharkhand High Court

Case No : Criminal M.P. No. 969 of 2002

Batori Mandal and Others

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 13-06-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 147, 148, 149, 323, 325

Citation : (2003) 3 JCR 218

Hon'ble Judges : Hari Shankar Prasad, J

Bench : Single Bench

Advocate : K.P. Deo, for the Appellant; Lakhan Chandra Roy, for the Respondent

Final Decision : Dismissed

Judgement

Hari Shankar Prasad, J.—This is an application u/s 482, Cr PC for quashing the order dated 5.8.2002 passed in T.R. Case No. 280/2002 arising out of P.C.R. Case No. 253/2002.

2. Facts giving rise to the filing of this application are that the opposite party No. 2 complainant (Manzoor Alam) filed a complaint case bearing No. P.C.R. 253/2002 before the SDJM, Madhupur, Deoghar on 29.7.2002 for the occurrence said to have been committed on 23.7.2002 at 10 a.m. alleging therein that plot No. 2 with an area of 35.50 acres of land of Mauza Chhota Narainpur, Thana No. 202, P.S. Madhupur was recorded as Jhanti Jungle in the Parcha of Ganzer's settlement and the paid land is situated, outside the forest demarcation. Village Chhota Narainpur is a Pradhani village and village Pradhan is the fully competent to make settlement of wastes land of village with the Jamabandi raiyats of the village and father and grandfather of the complainant approached the village Pradhan for getting settlement of wastes land and village Pradhan Baton Mandal (Petitioner No. 1) after being satisfied settled the land in the name of grandfather, and father of the complainant. The aforesaid land was converted into a good-bari land after making a heavy investment: and after the death of

the father of the complainant, the complainant is coming in peaceful possession of the land settled in the name of his grandfather and father. The village Pradhan filed a complaint case of paddy cutting being PCR Case No. 442/92 against the complainant and other family members, in which complainant and others were acquitted and the said order remained maintained upto the High Court. Further case of the complaint is that the complainant was harvesting that land and on the date of occurrence the brothers of the complainant were ploughing the field when the accused persons forming an unlawful assembly and armed with deadly weapons ..and lathi, came over the land and abused the complainant and on the order of Batori Mandal accused persons started pelting stones and brickbats which caused heavy loss and damages to the complainant and they also took away the equipment used for ploughing the field worth Rs. 25.000/-. Mr. Harun went to the police station to institute the case but no case was registered as they were engaged in the treatment of Samseer Ansari, so earlier the case could not be filed. (Annexure 1). Three witnesses were examined and on the basis of evidence of three witnesses, learned Court took cognizance under Sections 147, 148, 149, 323, 325 and 379 of the Indian Penal Code.

3. Heard learned counsel for the petitioners and learned counsel for the opposite party No. 2 complainant, who has appeared through vakalatnama.

4. Learned counsel appearing for the petitioners submits that the present complaint case filed on behalf of the complainant is a counter blast to the case filed on behalf of the petitioner, Batori Mandal as informant being Madhupur P.S. Case No. 149/2002 dated 23.7.2002 under Sections 147, 148, 149, 323, 324 and 379 of the Indian Penal Code and later on Section 314 of the Indian Penal Code and Sections 3 and 4 of the Explosive Substance Act have been added, vide order dated 25.7.2002. It was further pointed out that this Madhupur P.S. Case No. 149/2002 was filed on 23.7.2002 whereas the instant case has been filed on 29.7.2002 only to pressurize the petitioners to come to a settlement. It was further pointed out that continuance of this P.C.R. Case No. 253/2002 will be an abuse of the process of Court because FIR was lodged on 23.7.2002 against the complainant and others and when the complainant and others came to know about filing of the case of Batori Mandal, who is petitioner No. 1 in this application, then they concocted a case and filed a complainant case on 29.7.2002 only with a view to pressurize the informant of Madhupur P.S. Case No. 149/2002 to come to a settlement.

5. On the other hand, learned counsel appearing for the complainant submitted that a full-fledged enquiry u/s 202, Cr PC was made and after full-fledged enquiry three witnesses have been examined and all of them have supported the case made out in the complaint petition and at this stage, there cannot be meticulous examination or scrutiny of evidences of all the witnesses and similarly it cannot be a ground that since complaint Case has been filed at a later stage, it should be quashed.

6. Learned-counsel appearing for the petitioners placed reliance in the case of

State of Haryana and Ors. v. Choudhary Bhajan Lal and Ors., reported in 1992 Cr LJ 527 in which several grounds have been given when Court should interfere and quash the- proceeding. Learned counsel further pointed out that from the facts made out in the complaint case, it will appear that an unbelievable story has been concocted only to put pressure upon the informant of Madhupur P.S. Case No. 149/2002 to come to a settlement because it will be clear from the fact that aforesaid FIR was lodged on 23.7.2002 whereas this complaint case has been filed on 29.7.2002 after a delay of more than 6 days and the date of occurrence and time of occurrence and same as given in the FIR and there is no explanation for delay in lodging of the FIR.

7. On the other hand, learned counsel appearing for the opposite party No. 2 complainant of P.C.R. Case No. 253/2002 placed reliance upon a number of case laws, such as Lakhi Kanta Singh and Kalicharan Singh @ Suru Singh and Others Vs. The State of Bihar and Another, and in all these case laws it has been held that power of quashing should be exercised very sparingly and with circumstances in rarest of rare cases and where there is a specific allegation case should not be quashed. Learned counsel further pointed out that in the instant case three witnesses have been examined and all of them have supported the case and, therefore, there is specific allegation against the petitioners and in that view of the matter case is not such which can be quashed.

8. On a careful scrutiny of materials on record, no doubt it will appear that three witnesses have been examined and all of them have supported complaint case and it will also appear that one witness Sk. Rafique had gone to Police Station to institute a case where he was detained and this is a case of bonafide land dispute and, therefore, no case is made out for dismissing the complaint case.

9. In that view of the matter, this application is dismissed at the admission stage itself.