
(2015) 04 JH CK 0151
In the Jharkhand High Court
Case No : Criminal M.P. No. 691 of 2015

Bipin Bihari Sinha

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 16-04-2015

Acts Referred:

Citation : (2015) 2 JLJR 654

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Pandey Neeraj Rai, for the Appellant; Shailesh, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Rakesh Ranjan Prasad, J—Heard learned counsel appearing for the petitioner and the learned counsel for the Vigilance. This application has been filed for quashing of the order dated 4.4.2015, passed by the Special Judge, Vigilance, Ranchi in Vigilance P.S. Case No. 1 of 2013 (Special Case No. 1/2013), whereby and whereunder bail granted to this petitioner was cancelled on the ground that the petitioner has extended threats to the witnesses not to give evidence.

2. Upon hearing learned counsel appearing for the parties and on perusal of the records, it does appear that PW-1 Krishna Gopal @ Pintu, was partly examined by the Vigilance on 26.6.2014. Next date was fixed on 30.6.2014 for his further examination-in-chief. On the next date fixed, he did appear but on account of want of some documents, the Vigilance did not examine him. However, on 2.9.2014, he was examined by the prosecution and then he was partly cross-examined. The next date for further cross-examination was fixed on 13.11.2014, on which date he was partly cross-examined and due to the paucity of time the case was adjourned for 17.11.2014, for further cross-examination. However, on the same day one application was filed by the complainant stating therein that he is being threatened by the accused not to give evidence. On 14.11.2014, another application was filed by the complainant that when he went to the office of

Suresh Prasad, Executive Engineer, Drinking Water and Sanitation posted at Jamshedpur, associates of this petitioner, he asked him not to depose against the petitioner. On 11.12.2014, a letter of the complainant was received stating therein that Suresh Prasad has threatened him that if he will depose against the petitioner he will be implicated in Adityapur P.S. Case No. 395/2014. On the same day letter of said witness (PW-1) was received of the same effect. The Court having received those complaints, sent it to the S.P., East Singhbhum and to S.P., Vigilance. On 17.12.2014, an application was filed by the informant for cancellation of the bail of this petitioner stating therein that one case has been lodged against him at Jamshedpur by Suresh Prasad, Executive Engineer, Jamshedpur and before that Suresh Prasad had also extended threat not to depose against this petitioner. Rejoinder to that application was filed wherein it was stated that the petitioner has no connection with Suresh Prasad as he happened to be the Executive Engineer, Drinking Water and Sanitation at Jamshedpur, whereas the petitioner has been posted as Executive Engineer at Lohardaga and that the case was lodged by Suresh Prasad for the illegal act committed by the informant of this case. Thereupon, the Court after hearing the parties did record that Suresh Prasad, Executive Engineer, Department of Drinking Water and Sanitation, Jamshedpur, who had extended threat to the complainant, has lodged the case against the complainant at the instance of the petitioner who has also extended threat to witness, which is evident from the fact that the witness did not turn up for his-cross-examination after being cross-examined partly and, thereby, the bail granted to the petitioner was cancelled.

From the order, it is apparent that the Court without making any verification of the allegation made against the petitioner formed opinion that Suresh Prasad, Executive Engineer, Drinking Water and Sanitation, Jamshedpur had lodged the case against the complainant at the instance of the petitioner to put pressure upon the witness not to depose against the petitioner. Similarly, without making any verification of the allegation made by the complainant and PW-1 did record that he is being threatened by the petitioner and Suresh Prasad and that Suresh Prasad had extended threat at the instance of the petitioner and hence the Court was never justified to cancel the bail of the petitioner.

3. Accordingly, the order dated 4.4.2015, under which the bail of the petitioner has been cancelled, is hereby set aside.

4. It be stated that if PW-1 considers that he is under threat, protection be provided to him when such prayer is made by him. Thus, this application stands disposed of.