
(2000) 09 PAT CK 0034

In the Patna High Court

Case No : Criminal Miscellaneous No. 10193 of 2000

Chandra Prakash Khanduja

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 06-09-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 4, 482
Forest Act, 1927 — Section 33
Penal Code, 1860 (IPC) — Section 120B, 379, 411, 414, 420
Prevention of Corruption Act, 1988 — Section 13, 19

Citation : (2000) 3 BLJR 2221 : (2000) 4 PLJR 617

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narayan Roy, J.—Heard Mr. J.P. Shukla, learned Counsel for the petitioner and earned Counsel for the State.

2. By this application u/s 482 of the Code of Criminal Procedure, the petitioner has prayed for quashing of the First Information Report hearing No. 86/99 for an offence u/s 379, 411, 414, 420 and 120B of the Indian Penal Code and Sections 33 of the Indian Forest Act, 1927 read with Section 13 of the Prevention of Corruption Act, 1988.

3. Learned Counsel for the petitioner submitted that the facts alleged in the First Information Report do not constitute an offence against the petitioner and the First Information Report has been lodged with mala fide intention to harass and humiliate this petitioner, learned Counsel further submitted that the police has no authority under law to investigate the case in view of the provisions of Section 8 of the Bihar Saw Mills (Regulation) Act, 1999 as the licensing officer or any other officer authorised by the licensing officer is empowered to. make search and seizure and take action in accordance with the provisions and the police officer had no jurisdiction to inspect the saw-mill or saw-pits or to take action in

Violation of the provisions of the Act. It is further submitted that prosecution of the petitioner is illegal and bad in law inasmuch as that no previous sanction, as required u/s 19 of the Prevention of Corruption Act, 1988 has been obtained for prosecution of the petitioner u/s 13 of the P.C. Act.

4. From the materials on record, it appears that the petitioner has moved this Court for quashing of the First Information Report itself, on reading of the First Information Report, it appears to me that there are certain facts disclosing an offence against the petitioner. In this view of the matter, the investigating agency has to come to a logical end and it would be too early to say at this stage that the prosecution of the petitioner is tainted with mala fide. Prima facie, it appears from the First Information Report that offences alleged are under the Indian Penal Code and other laws.

5. In view of Sub-sections (1) and (2) of Section 4 of the Code of Criminal Procedure, all offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained and at the same time, all offence under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

6. The question that the police no jurisdiction to investigate the case as there is a different investigating agency, as envisaged u/s 8 of the Bihar Saw Mills (Regulation) Act in my opinion, does not sound well.

7. In State of West Bengal Vs. Narayan K. Patodia, , the Apex Court has observed:

That apart, new could the FIR be quashed if the investigating agency should have been different by lodging FIR alone no investigation is conducted by the police. It is the first step towards starting investigation by the police. If High Court was of the opinion that investigation has to be conducted by the Bureau then also there was no need to quash the FIR. Any way we take view that as offence under the Indian Penal Code are also involved, efficacious investigation can be conducted by entrusting it to the police investigating agency. Inherent powers of the High Court as recognised in Section 482 of the Code are reserved to be used "to give effect to any orders under the Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice." It is quite unfortunate that learned Single Judge overlooked the reality that by quashing the FIR in the case, the High Court did not achieve any one of the above factors. On the contrary, the result of quashing the FIR had rendered the allegations of offences made against a person to remain consigned in stupor perennially. Hence, instead of achieving ends of criminal justice, the impugned order would active the reverts of it.

8. For the reasons aforementioned, therefore, it must be held that the police had jurisdiction to investigate the case and there are facts constituting an offence in

the First Information Report. The submission of the earned Counsel for the petitioner that the First Information Report is liable to be quashed as prosecution of the petitioner u/s 13 of the P.C. Act has not been sanctioned as required u/s 19 of the Act, equally appears to be a fallacious as no charge-sheet has been submitted against the petitioner and cognizance of the offence has not yet been taken.

9. For the reasons and legal proposition, as noticed above, I do not find any merit in this application, It is, accordingly, dismissed.