
(2008) 12 J&K CK 0006
In the Jammu And Kashmir High Court

Chintamani Paul (Kumhar)	Vs	APPELLANT
State of Jharkhand and Another		RESPONDENT

Date of Decision : 03-12-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164
Penal Code, 1860 (IPC) — Section 182, 211

Citation : (2009) CriLJ 2283

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—The petitioner has prayed for quashing the order dated 11-10-2004 passed by learned 3rd Additional Sessions

Judge, Fast Track Court, Jamtara in Cr. Revision No. 14 of 2004/4 of 2004 confirming the order dated 1-4-2004 passed by learned Chief

Judicial Magistrate, Jamtara in P.C.R. Case No. 168 of 2003 and Nala P.S. Case No. 13 of 2003, whereby learned Chief Judicial Magistrate has

taken cognizance of the offences under Sections 182 and 211 of the Indian Penal Code.

2. The allegation made in the case was that the petitioner's son namely Bidhan alias Laltoo, who was unemployed, was taken by opposite party

No. 2 on the assurance that he will arrange a job for him. For that purpose he had also demanded Rs. Fifteen thousand. The petitioner had

managed a sum of Rs. Ten thousand and had given the same to the opposite party No. 2 on 18-6-2002. The opposite party No. 2, after some

time, had returned home, but the petitioner's son did not return. On enquiry the opposite party told the petitioner that his son had gone to his

sister's village Hirapur. When the petitioner did not find his son, he went to lodge F.I.R., but the Police refused to record the same. The petitioner, thereafter, filed a complaint petition before the Chief Judicial Magistrate, which was registered as P.C.R. Case No. 42 of 2003. As aforesaid, the complaint case was forwarded to the Police for investigation u/s 156(3) of the Cr.P.C. The Police after registering the case being Nala P.S. Case No. 13 of 2003/G.R. 64 of 2003, investigated into the same and ultimately submitted a final form dated 30-4-2003 stating that the allegations made by the petitioner was not found true on investigation. The petitioner, thereafter, filed a protest petition before the Court of learned Chief Judicial Magistrate, Jamtara, which was registered as P.C.R. Case No. 168/2003, in which the petitioner produced the evidences. In the mean while, the son of the complainant Laltoo Paul appeared in the Court and made his statement u/s 164 of the Cr.P.C. stating therein that nobody had abducted him, rather on his own sweet will he had gone out and married Kalpana Mohli. Another statement u/s 164 of the Cr.P.C. was also given by Kalpana Mohli, who also stated that she and Laltoo Paul - son of the complainant have voluntarily and willingly married and the allegation of kidnapping of Laltoo Paul is wholly false and baseless. Learned Chief Judicial Magistrate, on the basis thereof, dismissed the complaint. He also considered the recommendation of the Investigating Officer and took cognizance under Sections 181 and 211 of the I.P.C. against the petitioner for falsely implicating the opposite party No. 2 in the criminal case.

3. Aggrieved by the said order, the petitioner preferred Criminal Revision in the Court of Sessions Judge, Jamtara. The said revision was heard and finally disposed of by the 3rd Additional Sessions Judge, FTC, Jamtara by his order dated 11-10-2004. Learned Addl. Sessions Judge, on appraisal of the facts and materials on record, has come to the finding that the petitioner had made a false complaint to implicate the opposite party No. 2 in a criminal case and he is liable for prosecution under Sections 182 and 211 of the I.P.C. Learned Revisional Court, thus, refused to interfere with the order of learned Chief Judicial Magistrate, Jamtara.

4. Learned Counsel appearing on behalf of the petitioner submitted that the learned Chief Judicial Magistrate as well as learned Revisional Court did not appreciate the statements of witnesses produced by the complainant,

rather they erroneously relied upon the statement of petitioner's son

Laltoo Paul and as such they have committed error in passing the impugned orders.

5. I have heard the learned Counsel for the parties and considered the facts and materials on record. The petitioner admits that he had made

allegation of kidnapping his son Laltoo Paul by the opposite party No. 2. Laltoo Paul himself appeared and made his statement u/s 164 of the

Cr.P.C. that he was not kidnapped, rather he had himself voluntarily gone to marry Kalpana Mohli. The girl Kalpana Mohli also appeared and

made her statement u/s 164 of the Cr.P.C. that Laltoo Paul and herself have married and for that reason, father of Laltoo Paul has been threatening

to kill them and falsely implicated the opposite party No. 2 alleging kidnapping of Laltoo Paul by opposite party No. 2.

6. In view of the concurrent orders of the Courts below about the statement made by Laltoo Paul himself u/s 164 of the Cr.P.C. falsifying the

allegation of his kidnapping and in absence of any material on record to doubt such statement made by Laltoo Paul. I find no ground for

interference in the orders of the Courts below.

This Cr.M.P. is, accordingly, dismissed.