
(2012) 09 JH CK 0016

In the Jharkhand High Court

Case No : Criminal Miscellaneous No. 2106 of 2001

Dinesh Pandey

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 20-09-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 387, 406, 420

Citation : (2013) 1 JLJR 234

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : A.K. Das, for the Appellant; Sadhna Kumar , Assistant Public Prosecutor for the State of Jharkhand, for the Respondent

Final Decision : Allowed

Judgement

R.R. Prasad

1. Earlier this case was ordered to be heard along with Cr.M.P. No. 2419 of 2001. However, it was mentioned that since the counsel appearing for the petitioner in Cr.M.P. No. 2419 of 2001, is not available, the case be adjourned to other day, whereas, Mr. Das, learned counsel appearing for the petitioner in Cr.M.P. No. 2106 of 2001, submits that he is ready with the case and hence, his case be separated from Cr.M.P. No. 2419 of 2001 so that Cr.M.P. No. 2106 of 2001 be heard today. In view of the submission, this case is separated from Cr.M.P. No. 2419 of 2001.

2. Accordingly, heard learned counsel appearing for the petitioner and learned counsel appearing for the State.

3. This application has been filed for quashing of the entire criminal proceeding of Complaint Case No. 1024 of 2000, including the order dated 23.12.2000, whereby and whereunder, cognizance of the offence punishable under Sections 420, 406, 387, 120B of the Indian Penal Code has been taken against the petitioner.

4. The case of the complainant is that when this petitioner fell in need of money, he offered to sell his truck to the complainant. Thereupon the complainant asked for relevant documents to which the petitioner provided to him. On making verification, it came to know to the complainant that initially the vehicle was hypothecated to Nidhi Finance Company, Calcutta, but hire-purchase agreement got terminated on 12.08.1997 upon all the dues being cleared off, by the petitioner and then "No Dues Certificate" was granted by the Nidhi Finance Company, Calcutta. Thereupon the vehicle was transferred in the name of the petitioner, and thereby, the owner-book. Tax token etc., all stood in the name of this petitioner. Having satisfied that the petitioner is a rightful owner of the vehicle, the complainant purchased the truck for valuable consideration and then the vehicle was transferred in the name of the complainant. However, in course of time, the Police at the instance of M/s Nidhi Finance Company seized the vehicle which was subsequently released in favour of the complainant, thereafter the said vehicle was again seized by the Bistupur Police, at the instance of one Dina Nath Singh acting on behalf of the accused, Nidhi Finance company.

5. Further case of the complainant is that the Nidhi Finance Company who had earlier issued "No Objection Certificate" in favour of the petitioner has now been concocting a case by taking false plea that he had never granted "No Objection Certificate". In spite of all these assertions being made in the complaint, the petitioner has been made accused in the complaint which was registered as Complaint Case No. 1024 of 2000. On such complaint, cognizance of the offence punishable under Sections 420, 406, 387, 120B of the Indian Penal Code vide order dated 23.12.2000, which is under-challenge in this application.

6. Having heard learned counsel appearing for the petitioner and learned counsel for the State. I do find that it has never been the case of the complainant that this petitioner defrauded the complainant in any manner. The petitioner has never been alleged to have induced the complainant fraudulently or dishonestly to part with the money rather the case of the complainant itself is that when the petitioner offered to sell his vehicle to the complainant, the complainant took all the relevant documents relating to the vehicle from the petitioner and got it verified. Only when he made himself confirmed that all the documents relating to ownership of the vehicle are genuine and that the petitioner is the owner he purchased the vehicle.

7. In this situation, no offence whatsoever is made out either u/s 406 or 420 of the Indian Penal Code.

8. So far as offence u/s 387 is concerned, there has been absolutely no allegation against the petitioner so as to be sole offence being attracted against the petitioner.

9. Accordingly, the entire criminal case of Complaint Case No. 1024 of 2000 including the order taking cognizance dated 23.12.2000, is hereby quashed. In the result, this application stands allowed.