
(2010) 03 PAT CK 0159
In the Patna High Court

Dr. Pratap Singh

APPELLANT

Vs

State of Bihar and Dr. Surjit Singh

RESPONDENT

Date of Decision : 12-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 460
Penal Code, 1860 (IPC) — Section 120B, 177, 420, 425, 466

Citation : (2010) 03 PAT CK 0159

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shiva Kirti Singh, J.—Learned Counsel for the petitioner is permitted to make corrections in paragraph-1 of the petition.

2. Heard learned Counsel for the petitioner, learned Counsel for the State and learned Counsel appearing for the Opposite Party No. 2.

3. Petitioner has prayed for quashing of order of cognizance dated 9.6.1998 and also against issuance of summons against him in Complaint Case No. 256(c) of 1998 leading to Trial No. 1488 of 1998.

4. The offences involved are under Sections 177, 466, 425, 420, 468 and 120B of the IPC.

5. On behalf of the petitioner three grounds were urged in respect of prayer for quashing of the order under challenge. Firstly, it was submitted that a reading of the entire complaint petition will show that allegations of all kinds of illegalities or irregularities are confined to accused No. 1, Sardar Kuldip Singh Bagga and so far as this petitioner is concerned, he is only said to be Secretary of the Gurudwara Prabandhak Committee for some time who allegedly did not take action against accused No. 1 in spite of notice. Only on that basis, in his statement under solemn affirmation the complainant has alleged that petitioner and others were also in collusion with accused No. 1. Secondly, it has been submitted that the

complaint petition should have been filed before the concerned court at Patnacity and not at Patna. On that basis it has been submitted that order of cognizance is bad and lastly it has been submitted that the entire case is false and actuated by mala fide with a view to defame the members of Gurudwara Prabandhak Committee, Patnacity.

6. So far as the last submission is concerned, it is difficult for this Court at the present stage to come to any definite conclusion on the basis of materials on record that the case is actuated by mala fide. On that basis the complaint case cannot be quashed at this stage.

7. So far as the second contention is concerned, from the bare perusal of complaint petition it appears that a number of allegations have been levelled against accused No. 1 and other accused persons are said to be in collusion. These allegations no doubt relate mainly to institutions at Patnacity but the complainant as well as some of the accused are shown to be residents of Patna and the issue of jurisdiction may require detailed consideration by the court below if raised before it. However, so far as the challenge to the order of cognizance is concerned, provisions u/s 460 of the Cr.P.C. clearly take care of this submission and it has to be held that even if the Magistrate was not empowered by law to take cognizance, since there is no lack of good faith, his proceeding cannot be set aside merely on the ground of his not being so empowered. Even this observation is hypothetical and dependent upon ultimate finding in respect of issue of jurisdiction, if raised before the court below.

8. So far as the first contention is concerned, it is found that this contention will not render the entire order of cognizance bad in law and the grievance relates only to the case of the petitioner and requires a detailed scrutiny of the entire allegations with a view to find out whether there are sufficient materials to frame charges against the petitioner or not. Such an exercise can usefully be undertaken at the time of framing of charges and at that stage the petitioner will be at liberty to raise this issue which should be decided by the court below in accordance with law.

9. In view of the aforesaid discussions and findings, it is deemed not desirable to interfere with the impugned order. This application is, therefore, dismissed with the observation made above and with a further clarification that this order shall not prejudice the case of the petitioner in the pending proceeding before the court below.

10. There was a faint suggestion at the time of arguments that the complainant has compromised this case with respect to one of the co-accused. If that be so, the petitioner will be entitled to take benefits of such developments in support of his contention that the case is being prosecuted mala fide.

11. Since the case is an old one, the court below is expected to proceed with the case expeditiously and dispose of the same in accordance with law without any delay.