

(2013) 03 JH CK 0122

In the Jharkhand High Court

Case No : Criminal Miscellaneous No. 2680 of 2001

Ganga Sharan Singh

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 21-03-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 417, 420

Citation : (2013) 3 JLJR 272

Hon'ble Judges : Dhruv Narayan Upadhyay, J

Bench : Single Bench

Advocate : Sameer Saurabh, for the Appellant; Binay Tiwari, for the Respondent

Final Decision : Dismissed

Judgement

Dhruv Narayan Upadhyay, J.—This application u/s 482 Cr.P.C. has been filed by the petitioner for quashing the order of cognizance dated 31.1.2001, passed by the Chief Judicial Magistrate, Palamau at Daltonganj in Complaint Case No. 27 of 2001 by which the petitioner has been directed to face trial for the offence punishable under Sections 120B, 420 and 417 of the Indian Penal Code and also for criminal prosecution of the petitioner arising out of the said complaint case. The brief facts which appear from the complaint is that the petitioner happens to be the Administrative Officer of S.N. Sinha Institute of Business Management, Dhurwa, Ranchi. The complainant had appeared for admission test in the Management Course and after succeeding the test, got his admission and deposited the required fee as per the prospectus and rules of the Institute.

2. It is alleged that the complainant was not allowed for continuing his study for the second year because the Institute had increased its fee from Rs. 12,585/- to Rs. 35,000/- without any previous notice. The name of the complainant was struck off and he was not allowed to continue his studies. His original College Leaving Certificate has also been retained by the Institution and a sum of Rs. 18,935/- realised by the Institute, was not returned to him. Since the

complainant felt himself cheated, he has filed this complaint after making all correspondence.

3. It is submitted that name of the complainant was struck off because he had not completed required attendance and he was found absent from the class. It is incorrect to say that fee from Rs. 12,585/- to Rs. 35,000/- was increased. It is not a case of cheating. No deceptive intention from the very beginning when the complainant was admitted to the Institute, was ever exist. It is admitted case of the complainant that he got his admission and he was allowed to study in the Institute but due to laches on his part i.e. lack of attendance, he was not permitted to continue his study for next year.

Learned counsel has raised another point that the Institute is being run within the District of Ranchi but this complaint has been filed at Daltonganj and, therefore, the Magistrate has no territorial jurisdiction to take cognizance.

4. On the other hand, counsel for the State has opposed the prayer and submitted that it is not a case of only misappropriation of money or cheating of the amount deposited by the complainant but it is a case in which the valuable one year of a student has also been spoiled.

5. I have gone through the complaint petition and the documents before me. It is not in dispute that the complainant was a student of S.N. Sinha Institute of Business Management of which petitioner is the Administrative Officer. It is further admitted by the petitioner himself that the complainant was not allowed to continue his study for the second year but not on the ground taken by the complainant in his complaint but on the ground of lack of attendance. Rules of the Institute was well in the Prospectus itself and as per Rules of the Institute and the University, the students have to have complete 75% of the attendance for the Sessions.

6. First of all I would like to deal with the jurisdiction point. It is admitted case of the complainant as well as the petitioner that correspondences were made by the Institute with the complainant at his residential address falling within the jurisdiction of District of Daltonganj where this complaint was filed. The complainant. has also made it clear that he appeared for the aptitude test and as per his rank, offer for his admission was given by this Institute vide letter dated 26.12.1999 at his residential address situated within the District of Daltonganj. Following the offer letter, the complainant appeared for his interview and after succeeding, he has deposited required fee, tuition fee and other-charges and got his admission. Since correspondence between complainant and the Institute had taken place between Ranchi and Daltonganj, the jurisdiction for filing case, if any dispute between the aforesaid parties arises, lies at both the places i.e. Daltonganj as well as at Ranchi. Therefore, I do not find that the complaint filed and cognizance taken suffers from any lack of jurisdiction. Furthermore, any Judicial Magistrate who is competent to take cognizance can take cognizance of any offence if presented before him in the shape of complaint and there is no bar

in taking cognizance even for the offence committed outside the jurisdiction.

So far trial of the offence is concerned it can be transferred to a Court having competent jurisdiction. In this case, the stage of trial has not yet come. So, the petitioner can raise this point at appropriate stage if he feels aggrieved.

7. I have already mentioned in the preceding paragraph that fee for the first session was realised by the Institute and the complainant was admitted to continue his study. It is clearly stated in paragraphs of the complaint that on 5.9.2000, instead of Rs. 12,585/-, fee of Rs. 35,000/- was demanded and due to non-payment of said sum of money, name of the complainant was struck off and he was not allowed to continue his study. Prima facie the contention made in the complaint constitute offence for the purpose of proceeding with the trial. On the basis of averments made in the complaint, if any observation by this Court at this juncture is given, it would cause prejudice to the parties concerned and, therefore, I do not need to go in details whether any particular offence is committed or not at present. I do not find any merit in this application and the same stands dismissed. The interim order of stay dated 6.6.2001 stands vacated and the trial court or the court in seisin shall be at liberty to proceed further in accordance with law without being prejudiced by any observations made by this Court.

Let a copy of this order be communicated through Fax to the Court concerned.