

(2011) 02 JH CK 0016

In the Jharkhand High Court

Case No : Criminal M.P. No. 1144 of 2008

Hareshwar Prasad Sinha

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 17-02-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 406, 409, 418, 420

Citation : (2011) 2 JCR 193

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Judgement

D.K. Sinha, J.—Petitioner has invoked the inherent jurisdiction of this Court u/s 482, Code of Criminal Procedure for quashment of the entire criminal proceedings initiated against the Petitioner in connection with Complaint Case No. 19/1998 for the alleged offence under Sections 406/409/420/34 of the Indian Penal Code, including the order dated 5.12.2007 wherein cognizance of the offence was taken under Sections 406/418 of the Indian Penal Code.

2. This criminal miscellaneous petition was filed on 8.8.2008 and it was listed for the first time on 2.2.2011 after its filing. Keeping in view the fact that since the complaint case was filed in the year 1998, it was expedient to call for a report from the Court concerned and accordingly, report was called for.

3. Report of Shri Uttam Anand, Judicial Magistrate, 1st Class, Gumla is on the record, who by giving the status report as on 7.2.2011 explained that the case is fixed on 21.2.2011 for pre-charge evidence of the complainant. Since the complainant was not producing witnesses, a notice was issued vide order dated 3.12.2010 to the complainant to be physically present on 5.2.2011 (last date of hearing) with the witnesses. He did neither appear nor any witness was produced, but the learned Counsel for the accused informed the Court that Cr.M.P. No. 1144 of 2008 is running in the cause-list of the High Court.

4. Learned Judicial Magistrate has further explained that again vide order dated

5.2.2011, the complainant was directed to be physically present on next date with witnesses and the order was directed to be seen by the learned Counsel appearing for both the parties. Next date is fixed on 21.2.2011 for pre-charge evidence of the complainant.

5. This is a matter of serious concern that the learned Magistrate allowed the complaint to continue when the complainant did neither appear nor produce any witness on the date fixed on 5.2.2011 as per specific direction of the Court in the backdrop as well that the complaint case was pending since 1998 and the charge could not be framed. Only due to pendency of Cr.M.P. No. 1144 of 2008 before this Court does not put any bar to the trial Court to pass any appropriate order in accordance with law when no stay of further proceeding in the case has been granted. I have reason to believe that the complainant has lost interest in the complaint case. For the reasons discussed above that the complaint is pending for the last 13 years and even charge could not be framed, I find that the complaint needs interference.

6. Accordingly, this petition is allowed and Complaint Case No. 19/1998 pending before Shri Uttam Anand, Judicial Magistrate, 1st Class, Gumla is quashed and the Petitioner is exonerated from his criminal liability of that case.