

(2012) 03 JH CK 0200
In the Jharkhand High Court
Case No : Criminal M.P. No. 873 of 2008

Harihar Mishra

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 21-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 379, 385, 447, 504

Citation : (2012) 4 JLJR 262

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : R.K. Mahtha, for the Appellant;

Final Decision : Allowed

Judgement

R.R. Prasad, J.—Heard the parties. This application has been filed u/s 482 Cr.P.C. for quashing of the order dated 18.3.2008 passed by the then Sub-Divisional Judicial Magistrate, Bermo at Tenughat in Complaint Case No. 8 of 2008 whereby and whereunder, cognizance of the offences punishable under Sections 447/385/379/504 of Indian Penal Code has been taken against the petitioner.

2. The case of the complainant as it appears from the complaint petition is that the petitioner and two others came to the hotel of the complainant and forcibly took away Rs. 500/- from the cash counter and also threatened that, if he wants to run his hotel business, he will have to pay Rs. 1,000/- per month to the petitioner.

3. On such allegation, a complaint bearing Complaint Case No. 8 of 2008 was lodged. Subsequently, cognizance of the offences punishable under Sections 447/385/379/504 of Indian Penal Code was taken against the petitioner vide order dated 18.3.2008 which is under challenge.

4. Having heard learned counsel appearing for the petitioner and the State and on perusal of the records, it does appear that the complainant had taken a loan

of Rs. One lakh from the petitioner as friendly loan for which an agreement was executed on 19.10.2002 on the stamp paper which has been annexed as Annexure-2.

5. It is the case of the petitioner that the complainant never returned the amount which has been taken as loan in spite of repeated request. Thereupon, a legal notice was sent on 13.6.2006 but that also bore no result. Therefore, a money suit bearing M.S. No. 1 of 2008 was filed in the court of Munsif, Bermo at Tenughat. In the aforesaid background, the case of the complainant seems to be actuated with malice and in that view of the matter, it would be travesty of justice if the petitioner is allowed to face rigor of trial.

6. Accordingly, the order dated 18.3.2008, passed by the Sub-Divisional Judicial Magistrate, Bermo at Tenughat in Complaint Case No. 8 of 2008, under which cognizance of the offences has been taken against the petitioner under Sections 447/385/379/504 of Indian Penal Code, is hereby quashed. In the result, this application is allowed.