
(1983) 09 P&H CK 0065

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 1108-M of 1983

Kasturi Lal Thapar

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 01-09-1983

Acts Referred:

Citation : (1983) 09 P&H CK 0065

Hon'ble Judges : B.S.Yadav, J

Advocate : K.S. Ahluwalia, M.P. Gupta, H.S. Nagra, G.S. Grewal, Harbans Singh,
Advocates for appearing Parties

Judgement

B.S. Yadav, J.

1. This judgment will dispose of the above criminal miscellaneous filed under Section 482 of the Code of Criminal Procedure, as well as Criminal Revision Nos. 547, 675, 676 and 677, all of 1983, as all of these arise out of the same case.

2. The facts relating to these petitions are that Bachittar Singh respondent filed a complaint to the Senior Superintendent of Police, Ludhiana, stating therein that he was the sole proprietor of Ankur Industries Thakkar Industrial Estate, Navghar Road, Bhayander East, District Thane, Maharashtra, while Kasturi Lal, present petitioner was his conductor in the said factory. He brought Kasturi Lal to Khanna in December 1979, to purchase some machinery from there for installing the same in the said factory. Some machinery was purchased at Khanna and handed over to Kasturi Lal and Dinesh Vaidya for taking it to Bhayander. After some time when Bachittar Singh respondent went to Bhayander he found that the said machinery had not been installed in the factory but had been dishonestly disposed of. On enquiry firstly Kasturi Lal and Dinesh Vaidya gave some evasive reply, but later on confessed that they dishonestly sold it to one Satyam Industries, Panchal Udyog Nagar, Bhayander.

3. On the basis of the above report, F.I.R. No. 119 was registered in Police Station City, Khanna, on 12th July, 1980, under Sections 406 and 411. After

investigating the case, the Police presented a charge sheet against the present petitioners Kasturi Lal, Dinesh Kumar Vaidya (petitioner in Criminal Revision No. 676 of 1983), Arun Kumar Vaidya petitioner in Criminal Revision No. 677 of 1983), R.S. Kanal and Mool Chand Hiranandani (petitioners in Criminal Revision No. 547 of 1983) and Ashtaq Ahmed, in the Court of judicial Magistrate Ist Class, Samrala. The learned magistrate vide order dated 18th February, 1983 framed various charges against the above accused. All these petitions have been filed for quashing the above charges.

4. Before I proceed further, I may further make clear that one Ram Chand had filed Criminal Miscellaneous No. 4687M of 1981 for quashing of the above F.I.R. No. 119 dated 12th July, 1980. That petition was dismissed by S.C. Mital J, on 9th November, 1981 on the ground that the matter was only at the stage of investigation by the police and the Court in exercise of its inherent jurisdiction could not interfere with the statutory power of the Police to investigate into the alleged offence and quash the proceedings.

5. The main argument of the learned counsel for the petitioners is that the civil and criminal litigation is going on between Kusturi Lal petitioner and Bachittar Singh complainant in various Courts in District Thane in respect of Ankur Industries and Kasturi Lal's contention in those cases is that the premises in dispute had been given to him on rent. The learned counsel for the petitioners referred to the various orders and judgments passed by some courts of District. Thane and annexed to the present petition as well as to some of the revision petitions. On the basis of those documents he argued that complicated questions about relationship between Kasturi Lal and Bachittar Singh qua Ankur Industries are pending in Civil Courts at Thane, which have been prima facie decided in favour of the present petitioner. He, therefore, argued that when such complicated questions are involved, Criminal Court should withhold its hands from deciding those questions. I am of the opinion that those questions are not relevant to the present proceedings. In the present case Bachittar Singh's contention is that he had purchased the machinery in question and handed it over to Kasturi Lal and Dinesh Kumar Vaidya for transporting it to Ankur Industries, Bhayander, but they in connivance with the other accused, dishonestly sold it away. In the present criminal case only the allegations of Bachittar Singh have to be gone into.

6. The learned counsel for the petitioners also drew my attention to the delay in lodging the complaint by Bachittar Singh to the police. He argued that according to the complainant the machinery was purchased in December, 1979, but the report to the police was lodged in July, 1980. In these proceedings, which relate to the quashing of the charges, we cannot go into the truthfulness of the allegations of Bachittar Singh. That fact is to be decided by the trial Court.

7. Lastly, the learned counsel for the petitioners argued that the learned trial Court while framing the charges had not applied its mind and had passed a cryptic order. That order reads as follows :

"After hearing the learned A.P.P. for the State and counsel for the accused, there is a prima facie case u/s 406, 467, 471 I.P.C. etc. Accused charge sheeted accordingly. Accused plead not guilty to the charge and claimed trial."

I am of the opinion that this objection has also no force. In this respect reference can be made to Jayaprakash v. State 1981 CrL. L.J. 460, wherein the following observations were made :

"The contention advanced has no force, Section 228 does not in terms direct that the court should pass a formal order giving its reasons for the framing of the charge. That the Legislature did not contemplate a formal order framing the charge is evident from the fact that while in Section 227 there is express mention that the order of discharge passed by the Court should be supported by reasons, there is absence of such a provision in Sec. 228(1)."

The order of the trial Court shows that it was passed after hearing the parties.

8. For the foregoing reasons, I do not find any ground to interfere with the charges framed against the various petitioners. Consequently, the present criminal miscellaneous as well as the other criminal revision petitions are dismissed.