

(2010) 09 PAT CK 0100

In the Patna High Court

Case No : Criminal Miscellaneous No. 22691 of 2005

Kedar Singh and Others

APPELLANT

Vs

State of Bihar and Smt. Laxminia Devi

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 364, 482

Citation : (2010) 09 PAT CK 0100

Hon'ble Judges : Akhilesh Chandra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Akhilesh Chandra, J.—Heard learned Counsel for the petitioner and learned Additional Public Prosecutor for the State. None appeared on behalf of opposite party No. 2, the complainant.

2. This is an application u/s 482 of the Code of Criminal Procedure seeking quashing of order dated 03rd May, 2005 passed by Fast Track Court No. 271 of 2002 refusing the prayer of the petitioners to discharge them.

3. Undisputedly, at the instance of opposite party No. 2 Complaint Case No. 259 of 1998 was filed against eleven persons stating therein that his son, Ambuj Kumar @ Bunty, aged 14 years was kidnapped and some of the named accused persons were seen along with him. In spite of all attempts taken by her and information given to the Authorities nothing could be done. When the boy could not be traced out or returned then present complaint was filed wherein, after enquiry, cognizance of the offence u/s 364 of the Code of Criminal Procedure was taken and, accordingly, the case was taken to the Court of Sessions and at the relevant time, pending before the Additional Sessions Judge, Fast Track Court No. I, Rohtas, Sasaram, bearing Sessions Case No. 271 of 2002.

4. In between the victim could be recovered by Delhi Police and after recording his statement there he was also produced before Chief Judicial Magistrate,

Rohtas where his statement u/s 164 of the Code of Criminal Procedure was also recorded wherein he has given clean chit to the accused persons, denying his abduction rather stated that he was sent by her mother and maternal uncle to Delhi where he was residing in their full knowledge and he was never abducted by the accused persons, majority of them are closely related. On the basis thereof one Sasaram P.S. Case No. 585 of 2000 has also been instituted against the complainant and related persons for the offence under 209 and other allied sections.

5. It is also relevant to mention that prior to filing of the complaint case against the petitioners here one Barun P.S. Case No. 38 of 1998 was lodged by one of the named accused in the complaint petition now dead, Lala Singh, stating abduction of his nephew Dhananjay Singh against unknown wherein during investigation name of husband of the complainant, as stated, emerged and he was taken into custody and just, as stated, in revenge the complaint case was lodged against the accused persons.

6. The victim boy of case in hand, after recording of his statement u/s 164 of the Code of Criminal Procedure, has filed petitions supported with affidavit stating therein that whatever statement he has given u/s 164 of the Code of Criminal Procedure was under pressure of the Police. There is no further detail of the contents of the petition nor copy of the same is produced on behalf of the petitioners.

7. Before the trial court, petition was filed on behalf of the petitioners seeking their discharge apart from other placing their submissions on statement of the victim u/s 164 of the Code of Criminal Procedure the trial court, after discussing all such materials including petition filed on behalf of the victim supported with the affidavit, refused the prayer and finding prima facie case, decided to proceed with the trial giving rise to instant application.

8. By order dated 05th December, 2006 copies of depositions of the witnesses in sessions Trial No. 338 of 2002 arising out of Barun P.S. Case No. 38 of 1998 was also called for. As per report from the court concerned in Sessions Trial in hand, i.e., S.T. No. 271 of 2002 no statement was recorded but copies of the depositions of six witnesses recorded in sessions Trial No. 338 of 2002 have been transmitted but on the basis whereof also nothing appears attracting any interference in the impugned order.

9. The trial court has, on consideration of materials, including the trump card and basis of question mark upon the same, I find no reason to interfere. However considering the chequered history of the case I feel it necessary to direct the trial court to proceed expeditiously and preferably dispose of the case within six months from the date of receipt of a copy of this order.

10. In the result, finding no merit, this application is hereby dismissed.