
(2014) 11 PAT CK 0029

In the Patna High Court

Case No : Criminal Miscellaneous No. 20342 of 2008

Krishna Dutt Jha

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 17-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202
Penal Code, 1860 (IPC) — Section 323, 365, 379, 504

Citation : (2014) 11 PAT CK 0029

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Ashok Kumar Jha, Advocate for the Appellant; Jharkhandi Upadhyay, APP, Advocate for the Respondent

Judgement

Ashutosh Kumar, J.—Heard learned counsel for the petitioners and the State.

2. Nobody appears for the opposite party No. 2.

3. The petitioner No. 1 is the uncle of Shushil Jha, husband of the complainant, whereas petitioners No. 2, 3, 4 and 5 are the cousins of the husband of the complainant.

4. Allegation in the complaint petition is that the occurrence took place between 05.02.2006 to 11.10.2006. The long complaint lodged by one Manorma Devi discloses that on 05.02.2006, she and her husband were ousted from the house at the instance of the petitioners. No case was registered on report. However, on the basis of a newspaper publication, Police became active and instituted a case vide Pupri P.S. Case No. 23 of 2006. During the investigation of the aforementioned case, it has been alleged that when on 12.05.2006, the husband of the complainant was coming back home from the local market, he disappeared mid way. Finding no clue as to the whereabouts of the husband, complainant chose to file an application before the concerned authority. This time again, no action was taken by the police and only on a newspaper report having been

published on 11.10.2006 that efforts were made to have the husband of the complainant released from the clutches of the accused persons. The husband of the complainant, on his return, disclosed that on his way back home he was surrounded and was made to eat something which made him unconscious. On having regained his consciousness, he was offered food and heard the accused persons talking amongst themselves that they were planning to inflict such injuries on his person that in all its probability he would become a mental wreck. He was made to sign on several papers and was also assaulted at the instance of the accused persons. This action of the accused persons was also complained by the complainant but she was thrown away by the Police on the ground that she was a citizen of Nepal and that such complaint on her instance created disturbance for the local police.

5. In the aforesaid complaint witnesses were examined and the learned Chief Judicial Magistrate, Sitamarhi vide his order dated 17.05.2007 passed in Complaint Case No. C-310 of 2006 took cognizance against the petitioners under Sections 323, 365, 379 and 504 of the Indian Penal Code.

6. There is no dispute that a relationship existed between the complainant, her husband and the petitioners. From the documents, it appears that there was a property dispute between the parties and application was filed by the so called victim for demarcation of land before the Sub-Divisional Officer, Pupri in which petitioner No. 1 and some of his sons were noticed by the Officers concerned. The measurement of the land was done thereafter.

7. It has been submitted on behalf of the petitioners that the husband of the complainant is a dismissed employee of Rastriya Vanijya Bank, Nepal. After his termination from the service, he came back home and started creating disturbance for the entire family. The petitioner No. 1, who, as has been already stated, is the uncle of the husband of the complainant, who retired as a Headmaster of Government High School, Chirkunda. After his retirement, he has been living in his village home. Petitioner No. 2, one of the sons of petitioner No. 1, at the relevant time was employed as Junior Clerk in Damodar Valley Corporation and was posted at Dhanbad. A partition had also taken place in the family between the petitioner No. 1 and his brother (father-in-law of the complainant) in which an area of 02 acres and 56 dismals of land were apportioned to different co-sharers and memorandum of partition was also prepared.

8. Learned counsel for the petitioners draws the attention of the Court to the deposition of witnesses including the husband of opposite party No. 2 during the enquiry under Section 202 of the Cr.P.C. The statements made therein completely destroy the truthfulness of the prosecution version.

9. It has also been submitted on behalf of the petitioners that the case of other two co-accused persons namely Sunil Kumar Jha and Sudhir Kumar Jha, have been quashed by a Bench of this Court on 28.06.2011 in Cr. Misc. No. 31303 of

2008.

10. This Court, on perusal of the complaint, the statement under Section 202 of the Cr.P.C. and other documents finds no difficulty in coming to the conclusion that the case is absolutely unbelievable and is a fall out of domestic/personal dispute between the close relatives.

11. Considering this aspect of the matter, the order of cognizance dated 17.05.2007 as against the petitioners is set aside.

12. The application is allowed.