

(2011) 11 JH CK 0068
In the Jharkhand High Court
Case No : Criminal Rev. No. 32 of 2001

Lakhi Devi @ Sarswati Devi	Vs	APPELLANT
State of Jharkhand and Another		RESPONDENT

Date of Decision : 28-11-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 245
Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2011) 11 JH CK 0068

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad

1. Mr. S. Piprawal, learned counsel submits that though he was appearing in this case earlier but he has given no objection to the Opp. Party No.2 three or four years before for engagement of other lawyer, but he is not aware as to whether any other lawyer has been engaged or not.
2. Heard learned counsel appearing for the petitioner and learned counsel appearing for the State.
3. This application is directed against the order dated 22.08.2000 passed in C.P. Case No.280 of 1993 by the then Judicial Magistrate Dhanbad whereby an application filed u/s 245 Cr.P.C. for discharging the petitioner from the case was rejected.
4. Learned counsel appearing for the petitioner submits that a complaint was lodged by one Kartik Kumar Rawat stating therein that he had married one Usha Devi, sister of Prayag Rao, whose wife is the petitioner here in this case.
5. According to the complainant, they lived quite happily together but unfortunately Usha Devi on one day when came to her brother's house, she died

there. Thereupon, Prayag Rao approached the complainant and asked the materials, which had been given to the complainant, at the time of marriage as dowry to return, but the fact, was that all the materials had been taken by Usha Devi to her brother's (Prayag Rao) house, who after the death of Usha Devi, misappropriated those materials and not only that Prayag Rao also misappropriated a sum of Rs.12,000/-which had been given much earlier by the complainant to Prayag Rao for depositing it in a fix deposit but instead of depositing it in a fix deposit account, he invested the money for some other purposes.

6. Thereafter complaint case was taken up for inquiry. After holding inquiry, the court did find prima facie u/s 406/420 of the Indian Penal Code against the petitioner and hence, the petitioner was summoned.

7. Having been appeared, the petitioner filed an application u/s 245 Cr.P.C. for discharging her from the case as nothing was there in the proceeding against this petitioner showing commission of the offence by the petitioner either under Sections 420 or 406 of the Indian Penal Code.

8. That application was dismissed simply for the reason that this petitioner and other accused person never agreed for matter being referred to Panchyati but having gone through the record of the case, I do find that no allegation whatsoever has been levelled against the petitioner, who happens to be the wife of Prayag Rao, that this petitioner was ever entrusted with the money or the petitioner deceived the complainant for parting with any money or the materials and thereby no material whatsoever is there for constituting any offence either under Sections 420 or 406 of the Indian Penal Code and hence, the order dated 22.08.2000, refusing the petitioner to discharge from the case is hereby set aside. Accordingly, the petitioner is discharged from the case.

9. In the result, this application is allowed.