

(2012) 03 JH CK 0035

In the Jharkhand High Court

Case No : Criminal Miscellaneous No. 314 of 2000 (R)

Lala Krishna Prasad, Manbodh Mahto, Ashok Kumar Nayak
and Md. Rashid

APPELLANT

Vs

State of Bihar and Shah Hussain Bux

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 161, 323, 385, 500, 504

Citation : (2012) 2 JLJR 143

Hon'ble Judges : Prashant Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prashant Kumar, J.—This application has been filed for quashing the order dated 15.10.99 passed by Judicial Magistrate, Ist Class, Bermoo at Tenughat in Complaint Case No. 215/99 corresponding to T.R. No. 979/99 whereby he took cognizance against the petitioners under sections 323/504/385/500 and 161 of the I.P.C. Sri Ramautar Sharma, Learned Counsel appearing for the petitioners submit that from the allegation made in the complaint petition no offence under sections 323/504/385 and 504 of the I.P.C. is made out. He further submits that section 161 had already been deleted from Indian Penal Code. Shri Sharma further submits that present complaint petition filed with an ulterior motive for wreaking vengeance on the petitioners, because they lodged a case against O.P. No. 2 for theft of electricity. Accordingly, it is submitted that impugned order can not be sustained.

2. Sri A.K.Sahani, Learned Counsel appearing for O.P. No. 2 submits that the facts stated in the complaint petition, offence u/s 504 of the I.P.C. is made out. Accordingly, he submits that no interference required by this Court.

3. Having heard the submissions, I have gone through the record of the case.

4. Admittedly, petitioner No. 1 lodged an F.I.R. against O.P. No. 2 for theft of

electricity. From perusal of F.I.R. (Annexure-2), it appears that petitioner nos. 2, 3 and 4 are also members of raiding party. It is worth mentioning that aforesaid F.I.R. lodged on 02.8.99 and on that day itself, O.P. No. 2 was arrested. It further appears that present complaint petition filed on 23.9.99 i.e. after release of O.P. No. 2. on bail in aforesaid case. Thus, it appears that present case has filed by O.P. No. 2 with an ulterior motive for wreaking vengeance on the petitioners because they lodged a case against O.P. No. 2 for theft of electricity. Thus, in view of law laid down by their Lordships of Supreme Court in the case of State of Haryana Vs. Bhajan Lal (1992) 1 Supp. SCC 335, impugned order of cognizance can not be sustained. Accordingly, I allow this application and quash the impugned order dated 15.10.99 passed in Complaint case No. 215/99(T.R. No. 979/99) pending in the court of Judicial Magistrate, Ist Class, Bermo at Tenughat.