

(2016) 03 PAT CK 0107

In the Patna High Court

Case No : Criminal Miscellaneous No. 33721 of 2015 (Arising Out of PS.Case No. 1896 Year 2007 Thana -Patna Complaint Case District Patna).

Mammen Mathew and Others

APPELLANT

Vs

State of Bihar and another

RESPONDENT

Date of Decision : 14-03-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 204, 482
Penal Code, 1860 (IPC) — Section 120-B, 34, 384, 499, 500, 501, 502
Press and Registration of Books Act, 1867 — Section 14

Citation : (2016) 2 ECrc 524

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Kumar Ravish and Arifdaula Siddiqui, Advocates, for the Appellant;
L.K. Sharma, APP and Kumar Priya Ranjan and Gunja, Advocates, for the Respondent

Final Decision : Allowed

Judgement

Ashwani Kumar Singh, J. - By way of the present application preferred under section 482 of the Code of Criminal Procedure (for short " Cr.P.C."), the petitioners seek quashing of the summoning order dated 21.6.2007 passed in Complaint Case No.1896(M) of 2007 by the learned Sub Divisional Judicial Magistrate, Patna whereby and where under finding a prima facie case to be made out against the petitioners under sections 384, 499, 500, 501, 502, 120B and 34 of the Indian Penal Code (for short "IPC") and section 14 of the Press and Registration of Books Act, he has summoned the petitioners to face trial in exercise of power conferred under section 204 of the Cr.P.C.

2. In the aforesaid case, the complaint was filed against the petitioners, for giving false, misleading, mischievous, scandalous and wrong statements against the Bihar Industrial Area Development Authority (for short "BIADA") and its officers with a common intention and under well planned criminal conspiracy with each other to damage the reputation of the complainant and its officers by way

of publishing it in newspaper in the entire country.

3. The petitioners are/were connected with the Hindustan Times/Hindustan newspaper and represent/represented the same in different capacity inasmuch as the petitioner no.1 Mammen Mathew is the Resident Editor of the Hindustan Times, the petitioner no.2 Chaitanya Kalbag was, at the relevant time, Editor-in-chief in the Hindustan Times, the petitioner no.3 Anil Kumar is the Correspondent of the Hindustan Times, the petitioner no.4 Sunil Dubey was, at the relevant time, Local Editor of Hindustan, the petitioner no.5 Mrinal Pandey was, at the relevant time, Editor-in-chief of Hindustan and the petitioner no.6 Rakesh Sharma was, at the relevant time, the Printer and Publisher of the HT Media and Searchlight Press, Patna,

4. The complainant BIADA is a Government of Bihar Authority functioning under the Department of Industry, Government of Bihar and is having its office at Udyog Bhawan, South Gandhi Maidan, Patna, Bihar.

5. It is contended by Mr. Kumar Ravish, learned counsel for the petitioners, that, in fact, altogether three criminal cases were filed by opposite party no.2 bearing Complaint Case No. 2319(M) of 2007, Complaint Case No.2149(M) of 2007 and the instant one with respect to various newspaper publications in various newspapers. However, the petitioners interacted with the officials of BIADA and approached the Government to resolve the dispute outside the court amicably and the petitioners and the complainant amicably decided to settle the criminal cases through compromise. He has further contended that in that background, the Secretary of BIADA issued letter dated 16th March, 2012 in favour of the President of Bihar Industries Association with respect to their resolution taken in their Board of Directors' meeting in order to get the cases closed and pursuant to the said letter some of the petitioners, who were made accused in other cases, filed their respective quashing applications before this court in other complaint cases and vide orders dated 21st August, 2013 the quashing applications were allowed and the criminal cases were quashed in Cr. Misc. No. 44471 of 2008 (for Complaint Case No. 2319(M) of 2007) and Cr. Misc. No. 44181 of 2008 (For Complaint Case No.2149(M) of 2007).

6. Mr. Ravish has further contended that even on admitted facts of the complaint, the ingredients of the offence punishable under section 384 of the IPC are not attracted and the other offences under which cognisance has been taken are compoundable in nature.

7. On the other hand, Mr. Kumar Priya Ranjan, learned counsel appearing for opposite party no.2 BIADA, has submitted that on 18th June, 2007 the news items published from Patna, in daily newspapers, namely, Hindustan Times and Hindustan were false, defamatory and scandalous and were intentionally published in the entire country with regard to the complainant BIADA contrary to the facts and being shocked of the above news published, a complaint case was filed by opposite party no.2 on the basis of which cognisance of the

aforementioned offences was taken and the petitioners were summoned to face trial. He has submitted that the allegations made in the complaint do attract ingredients of the offences alleged. However, he concedes that when the petitioners negotiated with the officers of opposite party no.2 for settlement of the case, after due persuasion in the matter, the higher authority of opposite party no.2 decided to accept the compromise proposal and, accordingly, the proposal was accepted by the BIADA in its respective Board meetings which would be evident from the letter as contained in annexure A to the counter affidavit. He also concedes that in some other cases of identical nature this court has quashed the proceedings on the basis of compromise arrived at between the parties.

8. I have heard respective counsel for the parties and perused the records.

9. I find substance in the arguments advanced by the learned counsel for the petitioners that even on admitted facts of the case the ingredients of the offence punishable under section 384 of the IPC are not attracted in the present case.

10. Section 384 of the IPC provides penalty for extortion. It reads as under:-

"383. Extortion.- Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion"."

11. From a bare perusal of the definition of "extortion" it would be apparent that following ingredients would be required to constitute an offence under this section:-

(i) The accused must put any person in fear of injury to that person or any other person;

(ii) The putting of a person in such fear must be intentional;

(iii) The accused must thereby induce the person so put in fear to deliver to any person any property, valuable security or anything signed or sealed which may be converted into a valuable security;

(iv) Such inducement must be dishonestly.

12. Illustration (a) to the definition of section 383 of the IPC reads as under:

"A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion."

13. Apparently, in the present case, there is no allegation in the complaint that the petitioners dishonestly induced the complainant to deliver to any person any property, valuable security, or anything signed or sealed which may be converted into a valuable security.

14. Considering the allegations made in the complaint, this court is of the opinion that they do not attract the ingredients of the offence punishable under section 384 of the Indian Penal Code.

15. To that extent, the order passed by the learned Magistrate is patently bad in the eye of law. So far as other offences are concerned, though the allegations made in the complaint do attract ingredients of those offences, since the parties have arrived at an amicable settlement and have expressed their desire to compromise the matter and the offences are compoundable in nature, no useful purpose would be served by allowing the prosecution to continue. Therefore, the entire proceedings in the court below in Complaint Case No. 1896(M) of 2007 including the order dated 21.6.2007, is, hereby, quashed.

16. In the result, the application stands allowed.