
(2011) 01 JH CK 0006

In the Jharkhand High Court

Case No : Criminal Revision No. 1136 of 2010

Manoj Kumar and Others

APPELLANT

Vs

The State of Jharkhand and Smt. Chinta Devi

RESPONDENT

Date of Decision : 05-01-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 203, 397, 482
Penal Code, 1860 (IPC) — Section 323, 34, 341, 365, 379

Citation : (2011) 01 JH CK 0006

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.K. Sinha, J.—This revision application is maintainable u/s 397 r/w Section 401 of the Code of Criminal Procedure.

2. Instant revision application is directed against the order dated 27.10.2010 passed in C.P. Case No. 1075 of 2004 by which learned Judicial Magistrate, 1st Class, Dhanbad observed that there was prima facie material existed against the Petitioners, Manoj Kumar, Smt. Ramni Devi, Mahanand Prasad, Smt. Anita Devi @ Anita Kumari & Arbind Prasad to proceed against them for the alleged offence under Sections 323/341/379/365/506/34 of the Indian Penal Code and it was directed by the said order to issue summons.

3. Learned Counsel pointed out that a criminal revision was preferred by the opposite party No. 2 against the order dated 27.01.2005 recorded by Shri Radha Krishna, Judicial Magistrate, 1st Class, Dhanbad in C.P. Case No. 1075 of 2004 by which complaint case was dismissed u/s 203 of the Code of Criminal Procedure by detailed discussion. The impugned order was set aside and direction was made to the court below to issue process against the accused as there were sufficient materials brought by the complainant for issuance of process against them, the learned Additional Sessions Judge, F.T.C. No. IV, Dhanbad observed in Cr. Revision No. 54 of 2005. A Cr. Miscellaneous Petition No. 330 of 2007 was

preferred by the accused Petitioners u/s 482 of the Code of Criminal Procedure for setting aside the order recorded in Cr. Revision No. 54 of 2005 by which direction was made to the court below for issuance of the process.

4. The issues involved in Cr. Miscellaneous Petition No. 330 of 2007 were meticulously dealt with and this Court made the following observations:

Considering the above facts and circumstances, this application is disposed of with the following observations:

(i) The portion of the impugned order as recorded at para 9 thereof whereby the Revisional Court has recorded its finding that there is sufficient ground to issue process against the accused persons and the directions to the court below to issue process against the accused persons is hereby quashed.

(ii) The matter is remitted back to the learned Magistrate to conduct further enquiry and to pass appropriate orders on the basis of the material collected and available on record.

5. I find from the perusal of the impugned order dated 27.10.2010 recorded by the Judicial Magistrate, 1st Class, Dhanbad that the observation was made by this Court in Cr.M.P. No. 330 of 2007 referred to hereinbefore were not complied by the learned Judicial Magistrate in letters and spirit but has simply directed for issuance of summons against the accused Petitioner without further enquiry u/s 202 of the Code of Criminal Procedure as observed. I find that such order cannot be sustained and accordingly the same is set aside with the direction to the learned Judicial Magistrate to comply the specific direction that has been made in Para 12 in the order recorded on 25.08.2010 by this Court in Cr.M.P. No. 330 of 2007 preferably within a reasonable period of two months and to proceed in accordance with law.

6. This criminal revision is allowed in the manner indicated above.