

(2019) 05 PAT CK 0079

In the Patna High Court

Case No : Criminal Miscellaneous No. 24236 Of 2019

Manoj Sahu @ Manoj Kumar Sahu And Ors

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 07-05-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 323, 504

Citation : (2019) 05 PAT CK 0079

Hon'ble Judges : Prakash Chandra Jaiswal, J

Bench : Single Bench

Advocate : Bhanu Pratap Singh, Jharkhandi Upadhyay

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioners and learned APP for the State.
2. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 06.02.2016 passed by Addl. Chief Judicial Magistrate-IV, Aurangabad in Complaint Case no. 842 of 2015, whereby the learned Magistrate has taken cognizance of the offence under Sections 323 and 504 of the Indian Penal Code against the petitioners.
3. Factual matrix of the case is that O.P. no. 2 Ramdhin Ram @ Ramdahin Ram filed Complaint Case no. 842 of 2015 against the petitioners with the allegation, in succinct, that O.P. No. 2 was Junior Technician (Mechanical) in Hofincons Industrial Services Pvt. Ltd. under Jindal Steel Power Ltd. (JSPL) situated at Kirorhi Nagar P.S. Kotra Road, District- Raigarh (Chhatisgarh) while the petitioners are working as Engineer, Administrative cum Account Officer and Manager, respectively, in the said company. The complainant abruptly fell ill on 02.05.2015 and he was treated in the hospital of the Company and when he recovered from the illness, he got fitness certificate on 09.05.2015, and when he tried to resume his job on 18.05.2015, the petitioner no. 2 asked the

complainant to give in writing that he had taken leave on false ground and snatched his gate pass forcibly and also asked him to tender his resignation else he would be thrashed by the security guards. The complainant made complaint to the Labour Enforcement Officer, Raigarh regarding the aforesaid occurrence, but in vain rather he took favour of the petitioners. After the said occurrence, the complainant and his son Harendra Kumar proceeded to his village located at district Aurangabad by train on 25.05.2015 and when they alighted from the train at Anugrah Narayan station, the petitioners along with two other unknown persons surrounded them and petitioner no. 2 slated him by the name of his caste extending threatening of dismissal from his service. The two unknown miscreants tried to assault the complainant, but he was rescued by the locals. The complainant suspected his abduction and murder at the hands of the petitioners. Earlier to the complaint petition, the complainant had sent legal notice to the petitioners, but in vain.

4. During the course of inquiry, O.P. no. 2 examined himself on S.A. and also examined one witness, who happens to be his son.

5. Learned Magistrate after perusing the complaint petition, S.A., deposition of the witness and finding making out prima facie case took cognizance of the offence under Sections 323 and 504 of the Indian Penal Code against the petitioners.

6. It is submitted by learned counsel for the petitioners that no such occurrence as alleged ever took place. Petitioners have been falsely implicated in this case. As a matter of fact, the complainant was serving as Junior Technician (Mechanical) in Hofincons Infotech Industrial Services Pvt. Ltd. district-Raigarh. Subsequently, he was transferred from JSPL Raigarh (Chhatisgarh) to JSW Steel Ltd. Selam, Tamil Nadu and vide letter dated 19.05.2015, he was directed to join his new assignment. But as he did not comply the same. He was given notice to furnish an explanation within 72 hours for non-joining his new assignment vide letter dated 29.05.2015, but in vain. Thereafter, vide letter dated 03.06.2015, he was terminated from his service and he was asked to take his dues pending before the company to the tune of Rs. 6018/-, but he did not turn up before the company. Then the aforesaid amount was sent to him through cheque at his permanent address vide letter dated 11.08.2015. Being peeved with the aforesaid action taken against the complainant and under wrong impression that his aforesaid transfer and action was taken against him at the instance of the petitioners, the complainant has lodged this false case with altogether wrong and concocted story against the petitioners. It is highly improbable that the petitioners, who are posted in Chhatisgarh will slate the complainant and extend threatening to assault him along with other persons by chasing him from Raigarh to Aurangabad. The aforesaid case has been lodged against the petitioners with altogether mala fide intention. Had the petitioners intended to assault the complainant, they had sufficient opportunity to execute the same at Chhatisgarh itself and there was no necessity to rush to Aurangabad chasing the complainant

for the same. The aforesaid complaint petition filed by the complainant and cognizance taken against them is nothing, but an abuse of process of the Court, and is liable to be quashed.

7. On the other hand, learned APP for the State opposed this quashing petition.

8. From perusal of record, it appears that the complainant was transferred from Raigarh (Chhatisgarh) to Selam, Tamil Nadu and he was asked to join his new assignment, but in vain. Thereafter, he was given show-cause notice to explain as to why he has not joined his new assignment and on his failure to give explanation, he was terminated from his service. Petitioners, who happen to be officers of the aforesaid Company where the complainant was working, appears to have been implicated in this case by setting up malicious and mala fide story of chasing the complainant and his son by the petitioners from Chhatisgarh to Aurangabad along with other two persons for just slating him in the name of his caste and becoming adamant to assault him. The aforesaid allegation made by the complainant (O.P. No. 2) in the complaint petition appears to be absurd and improbable as the officers of the company would not take pain to chase the complainant hundreds of kilometers merely for slating and becoming adamant to assault him, having ample opportunity to execute their intention at Chhatisgarh i.e. place of posting itself and on the basis of aforesaid story no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the petitioners. Hence, the order taking cognizance against the petitioners, in my considered opinion is nothing, but an abuse of process of the Court. Hence the impugned order is quashed and accordingly this petition is allowed.