(2008) 08 JH CK 0114

In the Jharkhand High Court

Md. Sayeed @ S.M. Sayeed APPELLANT

Vs

The State of Jharkhand RESPONDENT

Date of Decision : 12-08-2008

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) — Section 397, 482
Penal Code, 1860 (IPC) — Section 420, 467, 468, 471

Citation : (2008) 08 JH CK 0114

Hon'ble Judges : Amareshswar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard Mr. B.M. Tripathy, learned senior counsel appearing for the petitioner.

2. In this application, the petitioner has challenged the Revisional order dated 26.02.2008 passed in Cr. Revision No. 106 of 2006 by the learned Sessions Judge, East Singhbhum, Jamshedpur dismissing the revision application filed by the petitioner.

3 The facts, in short, are that the First Information Report was registered on the statement of one Hamida Khatoon being Jugsalai P.S. Case No. 103 of 2001, which was registered under Sections 467, 468, 471 and 420 of the Indian Penal Code alleging inter alia that the due to acute poverty she intended to sell her Khaprapose House situated at Purani Basti Road, Jugsalai to the petitioner for a valuable consideration of Rs.2,00,000/-. She further alleged in the year 1998, she was taken by the petitioner to the office of the Registrar, Jamshedpur and got a Sale Deed registered with the assurance that the money would be given to the Informant at her residence. On the same day, she was given a sum of Rs. 10,000/- and thereafter a sum of Rs.5,000/-. It is further alleged that the petitioner has paid Rs.1,000/-per month for 16 months to the Informant lady out of the total consideration of the property purchase.

4. But later on the petitioner is alleged to have stopped making payment of any amount to the Informant lady despite her repeated requests and exhortations. It is further alleged that the Informant lady had produced two money receipts given by the petitioner dated 11.12.1997 and 23.9.1998 of Rs.55,000/- and Rs.70,000/- respectively showing the payment. The lady being poor, illiterate and helpless approached the local muslim committee locally known as ''Anjuman Falahal Muslemeen'', Jamshedpur for redressal of her grievance. The Committee, after making necessary enquiry opined that the documents relied upon by the petitioner are not genuine and thus the petitioner has committed cheating and forgery with her. The matter was investigated by the police and, thereafter, on completion of investigation, chargesheet was submitted against the accused persons on the basis of which cognizance was taken for the offence under Sections 467, 468, 471 and 420 of the Indian Penal Code.

5. Petitioner thereafter filed an application for his discharge before the trial Court. The learned trial Court, on consideration of the facts and materials placed before him, rejected the prayer for discharge by order dated 17.04.2006.

6. The petitioner, thereafter, challenged the order of the trial Court by filing the revision before the Sessions Judge, in Criminal Revision No. 106 of 2006 which was dismissed by the impugned judgment dated 26-02-2008, which is under challenge in this application.

7. Mr. B.M. Tripathy learned senior counsel for the petitioner submitted that the allegation made in the F.I.R. is purely of the civil nature and petitioner has unnecessarily been dragged in the criminal prosecution. He also submitted that the petitioner has filed a Title Suit No. 112 of 2000 for declaration of right, title and interest over the property in question before the F.I.R. was lodged by the informant.

8. From the order passed by the learned Magistrate as well as from the order passed by the Sessions Judge in revision, I find that both the courts below have gone into the details and dealt with the facts and allegation made in the F.I.R. as also the documents produced by the petitioner and, thereafter, on considering the materials collected during investigation and the materials in the case diary came to the conclusion that paras 5, 7, 8, 9, 10, 11 and 19 of the case diary contained the statements of the independent witnesses, who supported all the allegations made against the petitioner and stated that the accused petitioner was not only duped and cheated by the informant but in order to save his own skin and to avoid for making any further payment, he has brought into existence a forged money receipt. This Court is not inclined to entertain this application on two counts. Firstly, that the petitioner has already availed the remedy of revision before the Sessions Judge against the order of the trial Court and, therefore, this application u/s 482 Cr.P.C. is nothing but a second revision, which is barred under the provision of Sections 397(3) Cr.P.C. No doubt in some of the cases of Supreme Court has held that if any patent illegality is shown in the order of Revisional Court then in such case, the High Court may exercise its jurisdiction u/

s 482 Cr.P.C. to prevent the abuse of the process of the Court even if the party has approached the Revisional Court.

9. In the present case, I do not find any patent illegality or even irregularity so as to call for any interference by this Court u/s 482 Cr.P.C. Secondly from the impugned judgment of the Revisional Court, I find that the Sessions Judge has fully applied his mind and, thereafter has come to the conclusion that no case for discharge is made out. I do not find any reason to differ with the said findings of the Revisional Court. Accordingly, having found no merit, this application is dismissed.

