
(2008) 03 PAT CK 0005

In the Patna High Court

Case No : Criminal Miscellaneous No. 13593 of 2006

Miss Ajana Ghosh

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 04-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 203, 204, 482
Penal Code, 1860 (IPC) — Section 465, 471

Citation : (2008) 4 PLJR 802

Hon'ble Judges : Madhavendra Saran, J

Bench : Single Bench

Advocate : Deepak Kr. Singh and S.M. Shabbir Alam, for the Appellant;
Satyendra Krishna Pd., for the Respondent

Final Decision : Allowed

Judgement

Madhavendra Saran, J.—This application u/s 482 of the Code of Criminal Procedure (in short as the Code) has been filed for quashing the order dated 24.4.2004 passed by learned Chief Judicial Magistrate, Munger in Case No. 829-C/03 whereby and whereunder he has taken cognizance under Sections 465 and 471 of the Indian Penal Code and issued process against the petitioner. On 5.9.2003 opposite party no. 2 complainant Manish Kumar filed a petition of complaint before the Chief Judicial Magistrate, Munger alleging therein that he is working as Circulation Executive, Munger and Officer Incharge of Hindustan Times Ltd. He came to know that petitioner Ajana Ghosh has filed an application before the Labour Superintendent, Munger challenging her discontinuation in service as Contributor to "Hindustan Hindi Daily" Newspaper and during course of hearing of the said application she filed a letter dated 13 March, 2000 which stated that she had been appointed as reporter but on inquiry the complainant was informed that another letter dated 13 March, 2000 was issued informing the decision to extend the arrangement upto 30 November, 2000 on the existing terms and conditions. He alleged that the accused/petitioner in order to support her case that she has been appointed as reporter created a false document with

intention and purpose of cheating and also for harming the reputation of Hindustan Times Ltd. in general. The complainant thus asserted that accused/ petitioner was never made a reporter as has been claimed by her on the basis of the letter which was filed before the Labour Superintendent which was forged, fabricated and tampered one. On receipt of the aforesaid complaint, the learned Chief Judicial Magistrate examined the complainant on solemn affirmation and during inquiry u/s 202 of the Code examined two witnesses and on consideration thereof by the impugned order dated 24.4.2002 held that prima facie case under Sections 465 and 471 of the Penal Code is made out and accordingly issued process against the petitioner. Accused/ petitioner against the impugned order dated 24.4.2004 filed Cr. Revision No. 229/04 before the learned Sessions Judge, Munger which was dismissed by order dated 21.7.2004.

2. It has been argued that the impugned order taking cognizance is wholly illegal and amounts to an abuse of process of the court. Learned Counsel argued that the petitioner through letter dated 18.11.1998 approached the management of Hindustan Times Ltd. to act as news reporter and in consideration thereof the management accepted the petitioner's request as mentioned in letter dated 23.11.1998 issued under the signature of Executive President, Patna. The management informed that the arrangement will be for a period of one year and will come into force with effect from December 1, 1998. He further argued that subsequently letter dated 13.3.2000 was issued under the signature of Sri S.N. Chopra, General Manager (P&A) through which the petitioner was informed that it has been decided to appoint her as a reporter. The petitioner rendered services as reporter of the Hindustan Times until 3.8.2002 on which date she was asked to stop working as reporter. Against which she made a complaint to Sri Mahesh Khare, local Editor, Hindustan Times, Bhagalpur. During conciliation proceeding before the Labour Officer the petitioner filed many documents showing that since August, 1998 she had been working as reporter and without any reason she was asked to stop working on 3 August, 2002 which included the letter dated 13.3.2000. Learned Counsel pointed out that admittedly on 13.3.2000 a letter was issued and it is wrong to allege that the petitioner forged the contents of the said letter dated 13.3.2000. He also pointed out that neither author of the letter dated 13.3.2000 was examined in court nor the steno of Sri S.N. Chopra was examined as a witness during inquiry u/s 202 of the Code. The concerned file was also not produced to show that the letter dated March 13, 2000 appointing the petitioner as reporter was not issued by the management of Hindustan Times, Patna. Even carbon copy of the said letter was not produced in court to show interpolation and forgery.

3. On the other hand, Learned Counsel appearing on behalf of opposite party no. 2 supported the impugned order of cognizance and submitted that no interference is required at this stage. He referred to paragraph-5 of the complaint petition and submitted that Patna office informed the complainant that the letter dated 13 March, 2000 which was issued by Patna office of Hindustan Times Ltd. was a different letter and it only stated that "it has been decided to

extend the arrangement upto 13 November, 2000 on the existing terms and conditions". He then referred to Annexure-A/7 to the counter affidavit and submitted that Patna office through E. Mail informed the complainant that letter dated 13 March, 2000 is forged one.

4. Thus, the position is that there are two letters dated March 13, 2000 before the court. According to the petitioner through the impugned letter 13 March, 2000 issued from the office of General Manager (P&A), Hindustan Times Ltd. Under the signature of General Manager Sri S.N. Chopra she had been appointed as a reporter of the company whereas according to the complainant through letter dated March 13, 2000 the company had given extension to the petitioner on the existing terms and conditions and the petitioner has played fraud and tampered with the contents of the impugned letter by inserting words "appoint you as a reporter" in place of "extend the arrangement upto 30 November, 2000" on the existing terms and conditions.

5. The position is that the present complainant at the relevant time was working as Circulation Manager and Officer Incharge of Hindustan Times Ltd. Munger. He filed the present complaint before the court on 5.9.2003. It is admitted position that the author of both the letters dated March 13, 2000 is Sri S.N. Chopra, General Manager, Hindustan Times Ltd. The letter bears the signature of his P.A. also. It has also been signed by the Resident Editor, Hindustan Daily (Hindi). None of these persons were examined u/s 202 of the Code before the Magistrate. The carbon copy of letter dated March 13, 2000 was also not produced to show interpolation and forgery. The concerned filed was also not produced to show that there was no such direction to appoint the petitioner as reporter. Nothing has been brought on record to show that the management asked the complainant to prosecute the petitioner.

6. It appears that during inquiry u/s 202 of the Code two witnesses were examined who are P.W. 1 Subodh Sagar and P.W. 2 Tripundesh Narayan Tripathi. P.W. 1 was working as contributor whereas P.W. 2 was working as computer operator in the office of Hindustan Times, Munger. They have only stated that the petitioner has never worked as reporter of Hindustan newspaper.

7. At the stage of Section 203 or 204 of the Code the Magistrate is required to see whether prima facie case is made out. On the basis of allegations and the materials produced before the Magistrate, it cannot be accepted that there was sufficient ground for proceeding against accused. A Magistrate has to act like a reasonable and prudent person for satisfying himself prima facie if there is sufficient ground for proceeding. In absence of above requirement it cannot be accepted that prima facie case has been made out against accused/petitioner. Such being the position this application is allowed and the impugned order of cognizance dated 24.4.2004 is hereby quashed.