

(2016) 09 JH CK 0025
In the Jharkhand High Court
Case No : Cr. Rev. No. 306 of 2015

Mohanjee Dubey

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 19-09-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, Section 482
Penal Code, 1860 (IPC) — Section 34, Section 419, Section 420

Citation : (2016) 4 JLJR 378

Hon'ble Judges : Mr. Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Mr. Prakash Chandra, Advocate, for the Petitioners; Mr. Sanjay Kumar Srivastava, A.P.P, for the State; Mr. Satish Kumar Ughal, Advocate, for the Informant

Final Decision : Dismissed

Judgement

Mr. Rongon Mukhopadhyay, J. - Heard Mr. Prakash Chandra, learned counsel appearing for the petitioners and Mr. Sanjay Kumar Srivastava, learned A.P.P. assisted by Mr. Satish Kumar Ughal, learned counsel appearing for the informant.

2. In this application, the petitioners have prayed for quashing of the entire criminal proceedings in connection with Bariyatu P.S. Case No. 112 of 2012 including the order dated 10.07.2014 by which the application for discharge filed on behalf of the petitioners has been rejected.

3. It has been submitted by the learned counsel for the petitioners that the petitioners are the office bearers of Bank Karamchari Griha Nirman Swalambi Sahkari Samitiee. It has been submitted that since the plots were not allotted in favour of the informant and others and in fact the higher amount was demanded, on such allegation the First Information Report had been instituted. Learned counsel has submitted that the dispute is between the co-operative members for which appropriate forum for resolving such dispute was under the Bihar Self Supporting Co-operative Societies Act, 1996. Learned counsel submits that

although no materials have been collected which would show the criminality of the petitioners but without considering the same the impugned order dated 10.07.2014 has been passed which is a thoroughly a non-reasoned order.

4. Mr. Satish Kumar Ughal, learned counsel appearing for the informant, has supported the impugned order and has submitted that the matter which relates to Bank Karamchari Griha Nirman Swalambi Sahkari Samitiee was placed before the Assistant Registrar, Co-operative Societies and the authority had passed an order for constituting a fresh committee. Learned counsel further submits that the criminality of the petitioners would be evident from the fact that although the co-operative society was specially constituted for the bank-employees only but several plots were allotted to the persons others than the bank-employees and this would show the culpability of the petitioners in the commission of the offence. Learned counsel submits that the entire facts have been discussed in detail in the order dated 10.07.2014 and there being no reason to interfere in the said order, this application is liable to be dismissed.

5. Although discussions have been made with respect to the rival submissions but the impugned order dated 10.07.2014 does not contain any reasons while refusing to discharge the petitioners for the offence punishable under Sections 419, 420/34 of the Indian Penal Code. Although the learned counsel for the accused has raised some issues which also include his contention that any dispute between the members of the Co-operative Society can be resolved under Bihar Self Supporting Co-operative Societies Act, 1996 but such issue has also not been considered by the learned trial court while refusing to discharge the petitioners.

6. Since the impugned order does not contain any cogent reasons for dismissing the discharge application preferred by the petitioners, the same is not sustainable in the eye of law and accordingly, having found merit in this application, the impugned order dated 10.07.2014 passed by the learned Judicial Magistrate, Ranchi in Bariyatu P.S. Case 112 of 2012 is, hereby, quashed and set aside and the matter is remanded back to the learned Magistrate to pass a fresh order in accordance with law based on the materials available on records and after hearing the parties concerned within a period of two months from the date of receipt/production of a copy of this order.

7. Let it be noted that this Court has not expressed any opinion on the merits of the case.