
(2015) 04 JH CK 0150

In the Jharkhand High Court

Case No : Criminal Revision No. 699 of 2012

Om Prakash Tiwary

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-04-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 245, 397, 401

Citation : (2015) 2 JLJR 646

Hon'ble Judges : Ravi Nath Verma, J

Bench : Single Bench

Advocate : Vijay Kant Dubey, for the Appellant

Final Decision : Dismissed

Judgement

Ravi Nath Verma, J—This revision application has been filed by the sole petitioner-Om Prakash Tiwary under Sections 397 and 401 of the Code of Criminal Procedure (hereinafter referred to as Code) against the order dated 7.7.2012 passed in C.P. Case No. 785 of 2010 whereby and whereunder a petition filed by the petitioner under Section 245 of the Code has been rejected. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the opposite party No. 2 as well as learned A.P.P. for the State.

2. The allegation, as it appears from the complaint petition, filed by the opposite party No. 2-Prafulla Pandey the complainant is that on 11.9.2010 the petitioner boarded in his bus when its journey started from Jamshedpur to Dhanbad but even after demand he refused to pay the fare. Thereafter, there was exchange of hot words and near I.T.I. More when the bus stopped, two unknown persons boarded the bus and this petitioner along with those two persons assaulted the complainant with fists and slaps and took out Rs. 5,700/- from the pocket of the complainant and snatched one chain which he was wearing in his neck.

3. It appears from the impugned order that before framing of charge, four witnesses were examined and all of them have supported the complainant's

case. Thereafter, the petition under Section 245 of the Code was filed for discharge of the petitioner.

4. Learned counsel appearing for the petitioner submitted that the court below without recording any finding on sufficiency of prima facie evidence on record and without assigning any reason rejected the petition. It was also submitted that the witnesses, who had been examined before charge, have given contradictory statements and in fact the petitioner was not even present at the place, date and time of the occurrence. The court below also failed to consider the defence documents produced before the Court.

5. Learned counsel appearing for the opposite party No. 2 relying upon a case Amit Kapoor Vs. Ramesh Chander and Another, (2012) 4 JCC 2885 : (2012) 9 JT 329 : (2012) 9 JT 312 : (2012) 9 SCALE 58 : (2012) 9 SCC 460 , submitted that at the stage of framing of charge the court has not to consider the evidence in a meticulous way rather if the court is prima facie satisfied with the evidence and material available on record, can frame charge against the petitioner.

6. Section 245 of the Code, no doubt, enables the accused to invoke the powers of the trial court for his discharge from the trial. However, prayer for discharge can be allowed only if the entire evidence even if it remains unrebutted, no offence whatsoever is made out. As discussed above, such is not the situation in the case at hand.

7. It is a well settled principle that at the stage of framing charge, the court has not to examine the evidence in a way as examined during trial and neither roving inquiry nor meticulous examination of evidence is possible at this stage. It is also well settled that at this stage, the only consideration of the court is as to whether there was sufficient grounds for framing of charge against the accused and the probable defence can be taken at trial and not at this stage.

8. From the impugned order of the court below, it appears that the grounds as argued by the learned counsel for the petitioner were duly considered and discussed and the same was rejected after holding that the four witnesses examined before charge had supported the case of the complainant and prima facie there is sufficient evidence on record to frame charge.

9. I do not find any merit in the submissions of learned counsel appearing for the petitioner and the order impugned does not suffer from any impropriety or illegality. Hence, this revision application being devoid of any merit, is hereby dismissed.