
(2013) 07 JH CK 0058

In the Jharkhand High Court

Case No : Criminal Revision No. 726 of 2012

Rabindra Kumar Gupta @ Ravindra Gupta

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 05-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 239
Penal Code, 1860 (IPC) — Section 201, 363, 365, 468

Citation : (2013) 07 JH CK 0058

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : Nilesh Kumar and Mr. Amit Kumar, for the Appellant; Sadhna Kumar, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioner and learned A.P.P. for the Prosecution. The petitioner is aggrieved by the order dated 8.8.2012 passed by Sri S.N. Singh, learned Judicial Magistrate, 1st class, Lohardaga, in G.R. Case No. 277 of 2007, whereby, the application filed by the petitioner for being discharged u/s 239 of the Cr.P.C., has been rejected by the Court below.

2. The petitioner has been made accused in Kuru P.S. Case No. 73 of 2007 corresponding to G.R. Case No. 277 of 2007 for the alleged offences under Sections 363, 365, 468 and 201 of the Indian Penal Code. The case was instituted against the named accused persons for taking away the minor girls to Delhi, who were later rescued. Initially, the petitioner was not made accused in this case. The petitioner is a legal practitioner, practicing in the Lohardaga Courts and he has been made accused in this case subsequently, alleging that when the minor girls were brought back from Delhi, they were brought to the petitioner by the accused persons and it is alleged that affidavits were prepared, stating that the victim girls had not been kidnapped, rather they had gone to Delhi for

working on their own and with the consent of their parents. The petitioner being an advocate had put his signatures as an identifier of the girls swearing the affidavits.

3. Subsequently, the statements of the girls and the witnesses were recorded by the police wherein they stated that when the girls were brought back from Delhi, they were brought directly to the petitioner, who is an advocate, where the brother and the husband of the lady accused (who are also named accused persons in the case), were present, and they allured the victim girls to put their signatures on the papers, and thereafter they would be paid their money. Their signatures were taken but they were not paid by the other accused persons.

4. After investigation, the police submitted charge-sheet against the petitioner and cognizance was also taken against the petitioner, for the offence under Sections 363, 365, 468 and 201 of the Indian Penal Code. The petitioner filed this application for discharge, which was rejected by the Court below, finding that on the basis of the materials against the petitioner in the case diary, the offences were made out under the said Sections.

5. Learned counsel for the petitioner has submitted that the impugned order passed by the Court below is absolutely illegal, inasmuch as, the petitioner had only given the professional advice to the named accused persons and it is not the case that the girls had not put their signatures on the affidavits and their signatures were forged by the petitioner. It is further submitted by the learned counsel for the petitioner that the affidavits were sworn by the victim girls themselves, on which, the petitioner has only identified their signatures and accordingly, no offence can be said to be made out against the petitioner. Learned counsel has accordingly, submitted that the impugned order cannot be sustained in the eyes of law.

6. Learned counsel for the State, on the other hand, has opposed the prayer, submitting that there is allegation against the petitioner to be instrumental in making the said affidavits, which were sworn by the victim girls.

7. After having heard the learned counsels for both the sides, I find that the petitioner has been made accused in this case being an advocate practicing in Lohardaga Court, who had given some professional advice to the co-accused persons. It is not the case against the petitioner that the petitioner was involved in enticing away or kidnapping the minor girls who were taken to Delhi and there is no such allegation at all against the petitioner. Accordingly, in my considered view, no offence under Sections 363 and 365 of the Indian Penal Code can be said to be made out against the petitioner.

8. So far as the allegation under Sections 468 and 201 of the I.P.C., is concerned, it is apparent from the case diary that the petitioner had only given some professional advice to the co-accused persons. It is not the case that that the victim girls had not put their signatures on the affidavits and their signatures were actually forged by the petitioner, rather the victim girls have admitted

before the police that they had put their signatures on the same. It is also apparent from the affidavits which have been brought on record as Annexure-2 to this application, that the petitioner had only put his signature on the affidavits only as an identifier of the deponents. In the facts and circumstances of the case, I find that the petitioner had only given some professional advice to the co-accused persons, for which, in my considered view, the petitioner cannot be found guilty for the offence under Sections 468 and 201 of the I.P.C., as well.

9. In view of the aforementioned discussions, I am of the considered view that the impugned order passed by the Court below cannot be sustained in the eyes of law. Accordingly, the impugned order dated 8.8.2012 passed by Sri S.N. Singh, learned Judicial Magistrate, 1st class, Lohardaga, in G.R. Case No. 277 of 2007, is hereby, set aside and the petitioner stands discharged from the said case. This application is accordingly, allowed.