
(2006) 07 JH CK 0129
In the Jharkhand High Court

Raj Kamal Gupta and Another

APPELLANT

Vs

State of Jharkhand and Another

RESPONDENT

Date of Decision : 21-07-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 173, 482
Penal Code, 1860 (IPC) — Section 323, 448
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3

Citation : (2006) 4 JCR 613

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.K. Sinha, J.—The petitioner has preferred this petition u/s 482, Cr PC for quashing the First Information Report in relation to Kuru P.S. Case No. 94/2003 lodged on 14.10.2003 corresponding to G.R. No. 347/03 for the offence under Sections 448/323, IPC as also u/s 3 of the S.C. and S.T. (Prevention of Atrocities) Act.

2. The brief fact of the case is that the informant Daya Narain Ram presented a written report before the Kuru Police stating therein that he belonged to scheduled caste and he had received about 80 decimals of land appertaining to Khata No. 56 Plot No. 328 in the year 1955 from Bihar Dhudan Yagya Committee and after acceptance of gift he was in peaceful possession of the land and was doing cultivation work thereon. It is alleged that all on a sudden, the petitioner Raj Kamal Gupta with other accused persons came to his house, started assaulting him, calling him Chamar etc. and threatened to vacate the land in question, explaining that the land belonged to him which he had purchased in the year 1985 from ex-landlord and further threatened that in case of overt act, the entire members of his family would be eliminated. On such threatening he sent application to the Circle Officer. Deputy Collector Land Reforms as well as D.C. for the issuance of the receipt of the land in question in his favour but the

matter was pending for enquiry. It is alleged that the petitioner and other accused persons had been threatening that they would not allow him to harvest his standing crops. He further stated that, as a matter of fact, the petitioner and other accused persons had purchased such lands, which were acquired under "Bhudan" and now they wanted to dispossess the informant.

3. The matter has been entrusted to the Dy. S.P. for the investigation and to submit final form u/s 173 of the Code of Criminal Procedure.

4. Learned Counsel for the petitioner submitted that the petitioner is innocent and the dispute between the parties is of civil nature and can only be determined by a competent Court of civil jurisdiction. A proceeding u/s 107 of the Code of Criminal Procedure was initiated between the petitioner as well as others and the Opposite Party No. 2. The Opposite Party No. 2 had complained before the D.C.L.R., Lohardagga to which a Bhudan Case No. 1/02-03 was instituted in which the petitioner and others were noticed. The petitioner and other accused after appearing in the Bhudan case categorically stated that the land in question situated in village Chandlaso appertaining to Khata No. 56 Plot No. 328 with an area of 80 decimals was never given to the Opposite Party No. 2 by the Bhudan Yagya Committee and it was incorrect to say that said transfer by way of gift was confirmed in Confirmation Case No. 2046 on 16.10.1957. The land in question was initially recorded in the record of right in the Khewat of Baraik Mahipal which later on came in the possession of Anup Soy and the latter sold the said land on 28.7.1965 which was mutated in the name of Madhusudan Choudhary vide Mutation Case No. 137/R-77-78. The petitioner purchased the said land by registered deed of sale on 1.7.1985 and accordingly the petitioner and another got their names mutated, the rent was fixed and they were paying rent against the receipts.

5. Learned Counsel further submitted that the Dan Patra under the possession of the O.P. No. 2 is in relation to Khesra No. 428 whereas the disputed land is in Khesra No. 328.

6. On the other hand, the aforesaid Bhudan gift claimed by the O.P. No. 2 in his favour has been cancelled in the Confirmation SI. No. 2046 at page 244, which finds support from the report of the Circle Officer. Kuru. The matter was examined by the D.C.L.R., Lohardagga and after examining the record and hearing the rival contentions he by the order dated 25.8.04 came to the finding that the land in question appertaining to Khata No. 56 Plot No. 328 In village Chandlaso. P.S. No. 65, Kuru Circle was never given by the Bhudan Committee as gift to Daya Narain Ram. As a matter of fact the land donated by way of Bhudan by Anup Soy was recorded "cancelled" and therefore, Purcha issued by Bhudan Committee was not correct and therefore, the claim of the Opposite Party No. 2 is contrary to the revenue record. Similarly Dan Patra refers to Plot No. 428 whereas the dispute is in relation to Plot No. 328. The FIR has been lodged by the O.P. No. 2 against the petitioner and other co-accused by the O.P. No. 2 was only to put undue pressure by initiating criminal proceeding and for the same

grievance he separately filed a petition before the learned D.C.L.R., Lohardagga which was dropped. Therefore, the entire allegation made in the written report is false and concocted, brought about with malicious intention to harass the petitioner and such dispute can be settled and determined by a competent Court of civil jurisdiction. The petitioner is suffering the rigours of criminal prosecution and hence it is a fit case for quashing the FIR as well as criminal proceeding initiated against the petitioner in Kuru P.S. Case No. 94/03 corresponding to G.R. No. 347/03 for the alleged offence under IPC as well as u/s 3 of S.C. and S.T. (Prevention of Atrocities) Act.

7. By filing the true copy of the gift deed/certificate executed by the Bihar Bhudan Yagya Committee the O.P. No. 2 has stated that he was gifted 80 decimals of land under Khata No. 56 and Plot No. 328. As a matter of fact the Secretary, Bihar Bhudan Yagya Committee, Ranehi sent a letter vide No. 17/02-07 dated 30.10.2002 to the D.C.L.R., Lohardagga for the cancellation of the name of the petitioner from register II. The offence as alleged by the O.P. No. 2 was found true in supervision note of the Superintendent of Police, Lohardagga in relation to Kuru P.S. Case No. 94/03 against the petitioner and others.

8. Having regard to the facts and circumstances of the case, considering the rival contentions of the petitioner as well as the Opposite Party, I find that the allegation against the petitioner and others was made for the offence under Sections 448/323, IPC as also u/s 3 of the S.C. and S.T. (Prevention of Atrocities) Act. The matter is still under investigation by the Deputy Superintendent of Police, Lohardagga and it appears that he has not yet submitted the final form u/s 173 of the Code of Criminal Procedure.

9. I further find that apart from the civil dispute with regard to the claim and counter claim on the basis of rival instruments, the various allegations of the offence as narrated in the written report of the O.P. No. 2/informant of the police case. I find that the petition tiled u/s 482, Cr PC on behalf of the petitioner is premature. It would not be out of place to mention that the petitioner No. 2. Pradeep Gupta has been reported dead and hence this petition has been moved only on behalf of the petitioner No. 1 Raj Kamal Gupta.

10. With the above reasons I do not find it to be a fit case for interference in exercise of inherent jurisdiction for quashing the impugned FIR as well as criminal prosecution of the petitioner as prayed for.

There being no merit, this petition is dismissed.