

(2019) 05 PAT CK 0049

In the Patna High Court

Case No : Criminal Miscellaneous No. 51790 Of 2014

Ram Pravesh Thakur And Ors

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 17-05-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 34, 323, 325, 341

Citation : (2019) 05 PAT CK 0049

Hon'ble Judges : Ahsanuddin Amanullah, J

Bench : Single Bench

Advocate : Prabhash Ranjan Thakur, Manoj Kumar Jha, Jharkhandi Upadhyay,
Ram Bachan Singh

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners; learned APP for the State and learned counsel for the opposite party no. 2.

2. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') for the following relief:

"That this is an application for quashing the order dated 28.08.2014 passed by Sri Subir Kumar, Judicial Magistrate 1st Class, Madhubani in G.R. No. 2453 of 2013 "State Versus Ram Pravesh Thakur and Another" by which he has been pleased to take cognizance against the petitioners under sections 341, 323, 325/34 of the Indian Penal Code and consequently issued summons in connection with Bisfi P.S. Case No. 31 of 2013 dated 19.10.2013 and/or for passing any other appropriate order or orders which may be deemed fit and proper in the facts and circumstances of the case."

3. The allegation in the Bisfi PS Case No. 231 of 2013 dated 19.10.2013 (though fardbeyan was recorded on 20.08.2013), filed by the opposite party no. 2-

complainant, is that he was beaten up by the petitioners with iron rod leading to fracture in his arm due to quarrel between him and two girls in front of the house of the petitioners. It was alleged that the opposite party no. 2 when going to college on a bicycle, while crossing in front of the house of the petitioners, two girls has thrown a piece of wood in the spoke of his cycle due to which the spoke had broken and altercation took place leading to assault by the petitioners.

4. It transpires that the wife of the petitioner no. 1 had also filed Bisfi PS Case No. 189 of 2013, against the father and other family members of the opposite party no. 2 on 17.08.2013. In the same, the allegation is against the father and other family members of the opposite party no. 2, who are alleged to have entered into the house of the informant i.e., the wife of the petitioner no. 1, and assaulted her causing injury on the head and also taking away of mangalsutra worth Rs. 2,000/-, clothes and other articles worth Rs. 50,000/-.

5. It was submitted that the police after thorough investigation, had submitted Final Form/Report in Bisfi PS Case No. 231 of 2013, having found the allegation to be untrue. It was further submitted that in Bisfi PS Case No. 189 of 2013, charge sheet has been submitted against the accused.

6. From the above, it is clear that there is dispute between the parties who have filed case against each other alleging assault, in close proximity. In such background, the impression of the Court was that basically, to settle scores, each side has filed criminal case against the other side, for extraneous reasons.

7. Under such circumstances, the Court had adjourned the matter yesterday to enable learned counsel to take instructions as to whether they were ready to settle all issues between them by agreeing to put an end to both the criminal cases. Today, learned counsel have reverted to the Court and submitted that they have categorical instructions from their clients that the Court may quash both the criminal cases, which would go a long way to restore peace, harmony and tranquility between the parties.

8. Having considered the aforesaid, the Court is persuaded to interfere in the matter under its inherent power under Section 482 of the Code.

9. With regard to the power of the Court under Section 482 of the Code, it would be worthwhile to refer to paragraphs no. 23 to 26 of the judgment passed in Ashutosh Mukherjee v. The State of Bihar [Cr. Misc. No. 47012 of 2014, judgment dated 18-04-2019], which read as under:

"23. In Jitendra Raghuvanshi v. Babita Raghuvanshi reported as (2013) 4 SCC 58, the Hon'ble Supreme Court in paragraph no. 14 opined:

"14. The inherent powers of the High Court under Section 482 of the Code are wide and unfettered..." (emphasis supplied)

24. In Parbatbhai Aahir v. State of Gujarat reported as (2017) 9 SCC 641, the Hon'ble Supreme Court, at paragraphs no. 11, 16.1 and 16.4 held:

"11. Section 482 is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any court; or (ii) otherwise to secure the ends of justice... xxxx

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

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16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court." (emphasis supplied)

25. It would be pertinent to point out observations of this Court in *Rupesh Kumar v. The State of Bihar* [Cr. Misc. No. 30470 of 2016, order dated 21.02.2019] at paragraphs no. 9 and 15:

"9. From the aforesaid, it is abundantly clear that this Court has an inherent duty to ensure that whenever it comes across materials which justify a particular course of action, it should not shy away from discharging its constitutional obligations ...

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15... Moreover, every Court of extraordinary jurisdiction, more so a Constitutional Court, like the High Court, has an inherent original power vested in it, where, for securing the ends of justice, certain exercise of power, if required, may be resorted to. Such extraordinary power cannot be curtailed, except that it be invoked in necessary circumstances." (emphasis supplied)

26. The High Court, being a Constitutional Court, retains enormous and inherent powers to act in the interest of justice. Suffice it would, to state that any limitation whatsoever in exercise of such power, would be self-imposed, based on the Court's discretion, having due regard to the peculiar facts and circumstances of the case. Under Section 482 of the Code, the High Court only exercises the extraordinary powers it possesses by virtue of the fact that it is a High Court. Section 482 of the Code begins with a non-obstante clause and, as such, the High Court's interminable jurisdiction cannot be fettered or whittled down."

10. In the aforesaid background, the Court finds that a case for interference has been made out for exercising of inherent power by the Court under Section 482 of the Code for securing the ends of justice and also to prevent abuse of the process of the Court.

11. Accordingly, the entire criminal proceedings arising out of Bisfi PS Case No. 189 of 2013 as well as Bisfi PS Case No. 231 of 2013 and all orders which may have been passed in such proceedings, pending before the Courts below at

Benipatti in the district of Madhubani, stand quashed.