

(2017) 02 PAT CK 0087

In the Patna High Court

Case No : Criminal Revision No. 965 of 2014

Raman Kumar Yadav

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 20-02-2017

Acts Referred:

Press and Registration of Books Act, 1867 — Section 5, Section 6

Citation : (2017) CriLJ 2584

Hon'ble Judges : Mr. Chakradhari Sharan Singh, J.

Bench : Single Bench

Advocate : Mr. Shabbir Ahmad and Mr. Shambhu Sharan Singh, Advocate, for the Petitioner; Mr. Ram Sumiran Rai, App, for the State

Final Decision : Dismissed

Judgement

Chakradhari Sharan Singh, J. (Oral) - The petitioner was, admittedly, an employee of Dainik Jagran Group of Publications, at Muzaffarpur. The dispute between him and Dainik Jagran is pending in Labour Court in relation to the payment of wages. This is evident from the records, particularly, from his statement on Solemn Affirmation (S.A.) recorded by the Court taking cognizance. He has filed four cases against Dainik Jagran, which is a Hindi daily newspaper.

2. He filed a complaint petition in the Court of learned Chief Judicial Magistrate, Muzaffarpur, against Opposite Party Nos. 2 , 3 and 4, who are Chairman-cum-Managing Director-cum-Managing Editor, Jagran Prakashan Limited, the Chief General Manager, Dainik Jagran, Patna, and the Associate Editor, Dainik Jagran, Patna, alleging commission of offence punishable under Sections 420, 471 and 476 of the Indian Penal Code and Sections 8-B, 12, 13, 14 and 15 of the Press and Registration of Books Act, 1867 (hereinafter referred to as "the Act"). He alleged in the said complaint petition that the said Hindi Daily newspaper Jagran was initially being printed and published from Patna. The Jagran Publication Limited, in collaboration of the accused persons, started separate edition of the newspaper in the name of Jagran from Muzaffarpur with effect from 18.04.2005,

without obtaining registration number from the Press Registrar of India, which, according to him, is mandatory for any newspaper for any periodicity in the country before starting publication of newspaper from a place, separate from the one where it was being originally printed and published. It is also his case that the newspaper is being published in violation of the rules framed by the State Government under Section 20 of the Act.

3. The gist of the allegation is that the newspaper is being published in violation of provisions of Sections 5 and 6 of the Act.

4. It is also his case in the complaint petition that declaration in respect of a newspaper made in Section 5 (2) of the Act and authentication under Section 6 of the Act is essential before publication of a newspaper in view of Section 5 (2-C) of the Act.

5. It is accordingly the case of the petitioner that printing of registration number allotted to Patna Edition of Dainik Jagran for Muzaffarpur Edition is in violation of the Act and thereby the private opposite parties have committed acts of forgery, fraud and cheating.

6. It is also the case of the petitioner that the government advertisements are being published from Muzaffarpur Edition in violation of Central Government Advertisement Policy, 2007, and Bihar Government Advertisement Policy, 1981, and Advertisement Policy, 2008.

7. On the basis of the said complaint petition, learned Judicial Magistrate, 1st Class, Muzaffarpur, by his order, dated 30.05.2013, passed in Complaint Case No. 2638 of 2012, summoned 15 persons, made accused in the complaint petition, including Opposite Party Nos. 2, 3 and 4.

8. The private opposite parties preferred criminal revision against the said order in the Court of learned Additional Sessions Judge V, Muzaffarpur, registered as Criminal Revision No. 188 of 2013, which has been allowed by order, dated 21.06.2014, passed by learned Additional Sessions Judge V, Muzaffarpur, which order is under challenge in the present criminal revision proceeding under Sections 397 and 401 of the Code of Criminal Procedure, 1973.

9. By the said order, dated 21.06.2014, the learned Appellate Court, after having set aside the order issuing summonses, has asked the learned Judicial Magistrate, 1st Class, Muzaffarpur, to pass an order afresh in accordance with law.

10. Learned Counsel appearing on behalf of the petitioner has submitted that despite that offence under Sections 420, 471 and 476 of the Indian Penal Code is made out on the basis of allegations made in the complaint petition, the learned Court below has wrongly set aside the order passed by the Court taking cognizance.

11. I have perused the complaint petition carefully and I find that essential

ingredients of Section 420, 471 and 476 of the Indian Penal Code are completely missing. The only allegation, which the petitioner has made in the complaint petition, is in relation to the publication of newspaper from Muzaffarpur, in breach of statutory provisions of the Act. The order taking cognizance of the offence punishable under Section 420, 471 and 476 of the Indian Penal Code by the learned Judicial Magistrate, 1st Class, Muzaffarpur, was not, at all, sustainable and the said order has rightly been set aside by the impugned order.

12. Now, let me examination the allegation to examine whether they make out offence punishable under Sections 8-B, 14 and 15 of the Act.

13. As has been briefly noticed above, it is alleged that the persons accused in the complaint petition did not make required declaration under Section 5 (2-C) of the Act, before starting printing and publication of the Jagran newspaper, at Muzaffarpur, in the year 2005 as they did not obtain approval of the Press Registrar.

14. Section 5 of the Act reads thus:-

5. Rules as to publication of newspapers.-No newspaper shall be published in India, except in conformity with the rules hereinafter laid down:

(1) Without prejudice to the provisions of section 3, every copy of every such newspaper shall contain the names of the owner and editor thereof printed clearly on such copy and also the date of its publication.

(2) The printer and the publisher of every such newspaper shall appear in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe, in duplicate, the following declaration:

"I A.B., declare that I am the printer (or publisher, or printer and publisher) of the newspaper entitled and to be printed or published, or to be printed and published, as the case may be at".

And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted.

(2-A) Every declaration under rule (2) shall specify the title of the newspaper, the language in which it is to be published and the periodicity of its publication and shall contain such other particulars as may be prescribed.

(2-B) Where the printer or publisher of a newspaper making a declaration under rule (2) is not the owner thereof, the declaration shall specify the name of the owner and shall also be accompanied by an authority in writing from the owner authorising such person to make and subscribe such declaration.

(2-C) A declaration in respect of a newspaper made under rule (2) and authenticated under section 6 shall be necessary before the newspaper can be

published.

(2-D) Where the title of any newspaper or its language or the periodicity of its publication is changed, the declaration shall cease to have effect and a new declaration shall be necessary before the publication of the newspaper can be continued.

(2-E) As often as the ownership of a newspaper is changed, a new declaration shall be necessary.

(3) As often as the place of printing or publication is changed, a new declaration shall be necessary:

Provided that where the change is for a period not exceeding thirty days and the place of printing or publication after the change is within the local jurisdiction of the Magistrate referred to in rule (2), no new declaration shall be necessary if --

(a) a statement relating to the change is furnished to the said Magistrate within twenty four hours thereof; and

(b) the printer or publisher or the printer and publisher of the newspaper continues to be the same.

(4) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave India for a period exceeding ninety days or where such printer or publisher is by infirmity or otherwise rendered incapable of carrying out his duties for a period exceeding ninety days in circumstances not involving the vacation of his appointment, a new declaration shall be necessary.

(5) Every declaration made in respect of a newspaper shall be void, where the newspaper does not commence publication

(a) within six weeks of the authentication of the declaration under section 6, in the case of a newspaper to be published once a week or oftener; and

(b) within three months of the authentication of the declaration under section 6, in the case of any other newspaper, and in every such case, a new declaration shall be necessary before the newspaper can be published.

(6) Where, in any period of three months, any daily, tri-weekly, bi-weekly, weekly or fortnightly newspaper publishes issues the number of which is less than half of what should have been published in accordance with the declaration made in respect thereof, the declaration shall cease to have effect and a new declaration shall be necessary before the publication of the newspaper can be continued.

(7) Where any other newspaper has ceased publication for a period, exceeding twelve months, every declaration made in respect thereof shall cease to have effect, and a new declaration shall be necessary before the newspaper can be re-published.

(8) Every existing declaration in respect of a newspaper shall be cancelled by the Magistrate before whom a new declaration is made and subscribed in respect of the same:

Provided that no person who does not ordinarily reside in India, or who has not attained majority in accordance with the provisions of the Indian Majority Act, 1875 (9 of 1875), or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper."

(Emphasis is added)

15. Section 5 (2-C) of the Act contemplates that a declaration in respect of a newspaper made under rule (2) and authenticated under Section 6 shall be necessary before the newspaper can be published.

16. This is not in dispute that the declaration has not been made as contemplated under Section 5 of the Act.

17. It is the contention of learned Counsel for the petitioner that authentication of declaration under Section 6 of the Act is mandatory before publication of a newspaper only upon enquiry from the Press Registrar.

18. I may notice the provisions under Section 6 of the Act, which reads thus:-

6. Authentication of declaration.- Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made:

Provided that where any declaration is made and subscribed under section 5 in respect of a newspaper, the declaration shall not, save in the case of newspapers owned by the same person, be so authenticated unless the Magistrate is, on inquiry from the Press Registrar, satisfied that the newspaper proposed to be published does not bear a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State.

Deposit.- One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or other principal Civil Court of original jurisdiction for the place where the said declaration shall have been made.

Inspection and supply of copies.- The Officer-in-charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

A copy of the declaration attested by the official seal of the Magistrate, or a copy of the order refusing to authenticate the declaration, shall be forwarded as soon

as possible to the person making and subscribing the declaration and also to the Press Registrar."

(Emphasis is supplied)

19. It is evident on bare reading of Section 6 of the Act that authentication is to be done by the signature and official seal of the Magistrate before whom a declaration is made and subscribed. The proviso to Section 6 of the Act prohibits authentication unless the Magistrate is, on enquiry from the Press Registrar, satisfied that the newspaper proposed to be published does not bear the title which is the same as or similar to that of any other newspaper published either in the same language or in the same State. However, there is exception to the said provision, i.e. "save in the case of newspapers owned by the same person". It is the case of the petitioner himself that newspapers being published from Patna and Muzaffarpur are owned by the same person.

20. It is not the case of the petitioner that the newspaper being published from Patna and Muzaffarpur are not owned by the same person.

21. The purpose of the proviso to Section 6 of the Act is evident and that is to obviate breach of intellectual property rights. The purpose is that the newspaper to be published does not bear a title, which is same as or similar to that of any newspaper proposed to be published either in the same language or in the same State.

22. This is apparently to save patent/intellectual property rights of a newspaper. In my view, therefore, on the basis of what has been alleged in the complaint petition, no case of breach of provisions of Sections 5 and 6 of the Act is made out.

23. Having held that no breach of provisions of Sections 5 and 6 of the Act is made out, on the basis of allegations made in the compliant petition, I am of the considered view that no offence can be said to be made out under Section 12, 13, 14 and 15 of the Act. Section 8-B of the Act is not a penal provision; rather, it confers jurisdiction on the Magistrate empowered to authenticate a declaration under the Act to cancel a declaration in respect of a newspaper of an application made to him by the Press Registrar.

24. I, therefore, do not find any infirmity in the impugned order, passed by learned Additional Sessions Judge, Muzaffarpur.

25. This application is accordingly dismissed.

26. From what has transpired from the records of the present case and submissions advanced on behalf of the petitioner, I am of the considered view that personal vendetta of the petitioner is the main reason behind filing of a frivolous complaint case. The filing of the complaint case, in my view, is gross abuse of the process of the Court. The persons bringing motivated and frivolous litigation to the Court should not be spared lightly. I consider it to be a fit case

for imposition of exemplary cost while dismissing the present application.

27. This application is accordingly dismissed with a cost of Rs. 20,000/- to be deposited in the account of Patna High Court Legal Services Authority, within a period of four months from today.