

(2016) 10 JH CK 0066
In the Jharkhand High Court
Case No : W.P. (Cr.) No. 580 of 2015

Ranbir Singh Khadwalia

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 19-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 406

Citation : (2017) 2 ECRC 342 : (2017) 2 JCR 473

Hon'ble Judges : Mr. Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Mr. Nagmani Tiwari, Advocate, for the Petitioner; Mr. Sarvendra Kumar, J.C. to S.C. (L & C), for the Respondent-State; Mr. Pradeep Kumar Nayak, Advocate, for the Respondent No. 2

Final Decision : Allowed

Judgement

Mr. Rongon Mukhopadhyay, J.— Heard Mr. Nagmani Tiwari, learned counsel for the petitioner and Mr. Pradeep Kumar Nayak, learned counsel for the opposite party no. 2.

2. In this application, the petitioner has sought for a writ for quashing of the entire criminal proceeding in connection with Complaint Case No. 1155 of 2010 including the order dated 06.06.2012 passed by the learned Judicial Magistrate 1st class, Ranchi by which cognizance has been taken for the offence punishable under Section 406/34 of I.P.C. A further prayer has been made for quashing of that part of the order dated 27.07.2015 passed by the learned Judicial Commissioner, Ranchi in A.B.P. No. 961 of 2015 in which the petitioner has been directed to submit his passport as one of the conditions for grant of anticipatory bail.

3. The prosecution story as would appear from the complaint petition is that the respondent no. 2 was having a dealership of Kinetic Motors in the name and style of M/s. Shanti Motors, Ratu Road, Ranchi. It is alleged that the complainant was

induced by the petitioners stating that there is margin of Rs. 1,00,000/- for sale of one tractor and on such inducement, the respondent no. 2 became the dealer of the said company. Subsequent thereto amount were spent on processing fee as well as deposit of bank guarantee. It has also been alleged that by the inducement of the accused persons, the respondent no. 2 has to deliver Rs. 9,00,000/- for sending the tractors to the show-room of the respondent no. 2. It is also alleged that several tractors were sent by the accused persons to the complainant for sale of the tractors of the said company, but due to non-permission of the transport department, the respondent no. 2 was not able to sell out the entire lot. The subsequent act of the accused persons also reveals that on account of inducement made by them, the respondent no. 2 had made payment on various heads and in fact even the bank guarantee of Rs. 25 lacs which was submitted by the respondent no. 2 was also encashed. The allegations made in the complaint petition were substantiated in course of inquiry under Section 202 of Cr.P.C. and having found the allegation to be true, cognizance was taken on 06.06.2012 by the learned Judicial Magistrate, Ranchi for the offences punishable under Section 406/34 of I.P.C.

4. At the outset, Mr. Nagmani Tiwari, learned counsel for the petitioner has referred to I.A. No. 5537 of 2016 which includes a compromise petition entered into between the petitioner as well as the respondent no. 2. He has submitted that at the intervention of well-wishers, the dispute between both the sides have been settled pursuant to which demand draft of Rs. 10 lacs has been deposited in the trial court which was released in favour of the respondent no. 2.

5. It has been submitted that the entire dispute is with respect to business transaction and the same having been settled, no justifiable reasons exists for keeping the criminal prosecution against the petitioner pending.

6. Mr. Pradeep Kumar Nayak, learned counsel for the respondent no. 2 has accepted the factum of compromise and stated that amount of Rs. 10 lacs has been deposited before the learned trial court and has been received by the respondent no. 2. He submitted that he does not have any grievance if the entire criminal proceeding instituted against the petitioner be quashed and set aside.

7. As would appear from the complaint petition that the dispute is with respect to the business transaction between the petitioner and the opposite party no. 2 who had agreed to become a dealer on the insistence of the petitioner. The fall out of the dispute of the business transaction led the respondent no. 2 in filing a complaint case in which ultimately cognizance was taken under Section 406/34 of I.P.C. Since the matter between both the parties have been settled and the amount of Rs. 10 lacs has already been deposited in favour of the respondent no. 2, a compromise petition was filed before the Judicial Magistrate 1st class, Ranchi which according to the learned counsel for the parties is still pending.

8. I.A. No. 5537 has been filed by the petitioner to bring on record the joint compromise petition filed by both the parties before the learned trial court as

also intimating the fact that the amount of Rs. 10 lacs has been deposited which has already been received by the opposite party no. 2.

9. Considering the fact that the dispute appears to be civil in nature which was settled at the behest of the well-wishers and the respondent no. 2 does not have any grievance against the petitioner, it would be an exercise in futility to continue the criminal proceeding as against the petitioner.

10. In the light of the aforementioned facts this application is allowed and the entire criminal proceeding in connection with Complaint Case No. 1155 of 2010 including the order dated 06.06.2012 passed by the learned Judicial Magistrate, Ranchi by which cognizance has been taken for the offence under Section 406/34 of the I.P.C. is hereby quashed and set aside.

11. In view of the fact that the entire criminal proceeding has been quashed on the basis of the compromise, the second part of the prayer made by the petitioner with respect to the deposit of his passport as one of the conditions for grant of anticipatory bail has become redundant.

12. This application stands allowed.

13. Pending I.As. also stand disposed of.