
(2012) 04 PAT CK 0113

In the Patna High Court

Case No : Criminal Miscellaneous No. 8400 of 2011

Ravi Shankar Sahay and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 04-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 465, 468

Citation : (2012) 3 PLJR 416

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Kumar, J.—Heard Shri Bindhyachal Singh, Learned Counsel for the petitioners, Shri Hirday Prasad Singh, learned Additional Public Prosecutor and Smt. Prem Singh, Learned Counsel, who has appeared on behalf of the complainant/opposite party no. 2. Four petitioners, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, have prayed for quashing of an order dated 29.6.2010 passed by Smt. Rajani Kumari, Judicial Magistrate, Patna in Complaint Case No. 852(C) of 2010, whereby the learned Magistrate has taken cognizance of offence under Sections 465 and 468 of the Indian Penal Code.

2. Learned Counsel for the petitioners submits that in sum and substance allegation against the petitioners have been made that petitioners made false statement and on the basis of their false statement, an F.I.R. vide Patliputra P.S. Case No. 227 of 2009 was registered against the complainant of the present case as well as his son. The submission made by Learned Counsel for the petitioners that the complaint petition is primarily based on the ground that F.I.R. was lodged, which was according to complainant, false. The complaint petition has been filed, was not disputed by Learned Counsel for the complainant/opposite party no. 2. She admits that on the ground of making false allegation in the

F.I.R., the present complaint petition has been filed and it has been alleged that petitioners had fabricated a document. It was further submitted that this Court while exercising power u/s 482 of the Code of Criminal Procedure is not having jurisdiction to interfere with such proceeding that too, at the stage of order of cognizance.

3. Fact remains that after lodging F.I.R. in Patliputra P.S. Case No. 227 of 2009, police submitted charge-sheet against the complainant and his son, who were made accused in the said case and thereafter, cognizance order was also passed by the learned Magistrate. Meaning thereby that allegation pertaining to F.I.R. in Patliputra P.S. Case. No. 227 of 2009 was prima facie found true. It was admitted by Learned Counsel for both the side that present complaint was primarily initiated on allegation of lodging false case i.e. Patliputra P.S. Case No. 227 of 2009, If such complaints are allowed to proceed then in each and every police cases, such stand can be taken by accused persons with a view to frustrate investigation or proceeding in such cases. The court is of the opinion that allowing such complaint to proceed before the court below will amount to allowing abuse of the process of the court and with a view to prevent abuse of the process of the court, it is desirable to set aside the order of cognizance dated 29.6.2010 as well as entire criminal proceeding in Complaint Case No. 852(C) of 2010. this Court has not discussed the fact in detail due to the reason that issue in the present case was not disputed by either of the parties. The petition stands allowed.