

(2005) 02 PAT CK 0121

In the Patna High Court

Case No : Criminal W.J.C. No. 386 of 2004

Rewati Kant Dubey and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-02-2005

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 195
Penal Code, 1860 (IPC) — Section 34, 406, 420

Citation : (2005) 2 PLJR 491

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : Binay Kant Mani Tripathi, for the Appellant; Anil Kumar Verma and Prem Ranjan for State, for the Respondent

Final Decision : Allowed

Judgement

Shiva Kirti Singh, J.—Heard Learned Counsel for the petitioners and Learned Counsel for the State. Petitioners have prayed for quashing of F.I.R. of Bettiah Town P.S. Case No. 216 of 2002 lodged for the offences u/s 406, 420/34 I.P.C.

2. It has been submitted that the F.I.R. contained in Annexure-1, has been lodged by Additional Collector, West Champaran, Bettiah on the alleged order of Collector, West Champaran, Bettiah passed in a ceiling proceeding. It has further been submitted that even if the entire allegation is accepted that the four certificates relating to age of four claimants in the ceiling proceeding were not genuine or correct, since the certificates were given in evidence in the ceiling proceeding as is apparent from order of the Collector dated 18.5.2002 (Annexure-4), it would only be an offence relating to a document given in evidence covered by Section 195 of the Cr.P.C. for which only a complaint in writing could have been lodged by the Court concerned i.e. the Collector or by some other Court to which the Court of Collector is subordinate. It has further been submitted that for the offence u/s 36 of the Bihar Land Reforms (Fixation of Ceiling Area Acquisition of Surplus Land) Act, 1961, the taking of cognizance is

barred except with the previous sanction of the Collector of the district. An attempt was made by the Learned Counsel for the petitioners to submit that no offence is made out under provisions of the I.P.C, and only an offence u/s 36 of the Ceiling Act may be attracted.

3. Without deciding the last submission whether allegations amount to only an offence u/s 36 of the Ceiling Act or whether offences are made out under the I.P.C, also, this Court has no difficulty in finding that the direction of the Collector is in respect of offence relating to documents given in evidence for which procedure is laid down u/s 195 of the Cr.P.C. As per that procedure only the court of Collector or a superior court could initiate criminal proceeding by filing a complaint in writing. There is no scope for initiating an investigation by police through the lodging of F.I.R. in such a situation.

4. From the submissions advanced before this Court, it appears that against the appellate order of the Collector contained in Annexure-4, the matter had gone to the Board of Revenue and thereafter it is pending before this Court in a writ proceeding. Since the appellate Court has not lodged any complaint petition in accordance with Section 195 of the Cr.P.C. so far, and the matter has reached superior courts, this Court is not inclined to issue any direction for the present for re-application of mind by the Collector, West Champaran, Bettiah. However, this Court finds that lodging of the F.I.R. is against the statutory scheme appearing from Section 195 of the Cr.P.C. which permits only a complaint petition by the concerned Court in such cases. Hence, the F.I.R. is quashed. Whether prosecution against the petitioners should be initiated through a complaint petition or not shall be decided on the basis of decision by this Court in the writ proceeding or after conclusion of the writ proceeding it may be decided by any of the authorities under the Ceiling Act, but not by any authority below the rank of Collector, after careful perusal of all the matters. This writ petition is allowed to the aforesaid extent.