

(2022) 11 JH CK 0025

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 674 Of 2017

S. Venkatraman And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 01-11-2022

Acts Referred:

Indian Penal Code, 1860 — Section 341, 348, 506

Code Of Criminal Procedure, 1973 — Section 190, 193, 196, 197, 197(1), 197(2), 482

Citation : (2022) 11 JH CK 0025

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amit Kumar Das, Shivam Utkarsh Sahay, Saurav Kumar, Pankaj Kumar Mishra, Vishal Kumar

Final Decision : Allowed/Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Amit Kumar Das, learned counsel for the petitioners, Mr. Vishal Kumar, learned counsel for opposite party no.2 and Mr. Pankaj Kumar Mishra, learned counsel for the State.

2. This petition has been filed for quashing the entire criminal proceeding in connection with C/1 Case No.1497/2016 including the order dated 01.03.2017 passed by the learned Judicial Magistrate, 1st Class, Jamshedpur, whereby, cognizance has been taken under Sections 341, 348 and 506 of the Indian Penal Code against the petitioners, pending in the court of the learned Judicial Magistrate, 1st Class, Jamshedpur.

3. The complaint case has been filed on 27.06.2016 by opposite party no.2 alleging therein that he joined in Tinsplate Co India Ltd (TCIL) as a Junior Administrative Trainee and worked since then in the said company and at the time of filing complaint posted as Executive Officer at work office of the said company reporting to the present petitioner no. 1. It has further been alleged

that he had played a very important role and had been receiving assignment directly from the Managing Director of the Company and reporting to him over the happenings causing loss to the petitioner no. 1, who threatened the O.P. No.2. On 23.03.2016, petitioner no. 1 held a meeting directing all concerned officers to re-check the vendors bill of the period 2015-2016 so that any mistake detected in the bill may be corrected. After the meeting when O.P. No.2 came to his office and asked office staff to give vendor's bill file for re-checking. The O.P. No.2 was told by office staff that petitioner no. 1-Mr. S. Venkatraman has taken away the bills file. The petitioner no. 1-Mr. S. Venkatraman without knowledge of the O.P. No.2 get recheck and verified 23 bills of vendor M/s Shree Interiors and one bill of M/s Ramprakash Fabricators and Contractors by Mr. Sailesh Singh. This fact indicates that petitioner no. 1 how far biased with the O.P. No.2. The O.P. No.2 came to know that aforesaid bills had earlier been forwarded and counter signed by him. In scrutiny, it was detected that there was calculation mistakes in submitting bills as the calculation was made in square inch instead of square ft. this was the mistakes of the said contractors which could not be detected by O.P. No.2 earlier while counter signing and forwarding the bills as there was no copy of purchase order attached with the bill nor there was any circular order for direction issued by the management petitioner no. 1 to attach copy of purchase order while submitting bills. O.P. No.2 had no access to see purchase order and bill certification in SAP system. It was not in his memory or mind that purchase order was made in square ft., and not in square inch. Petitioner no. 1-Mr. S. Venkatraman is only the passing and sanctioning authority of the vendors' bills and on his direction the bill payment was to be made by account department after further scrutinization. The payment of 23 bills of vendor M/s Shree Interiors had already being made to the vendor on the basis of the passing of the bills and direction of petitioner no.1- Mr. S. Venkatraman. As such regarding wrong an excess payment of 23 bills to the vendor M/s Shree Interiors, the petitioner no. 1-Mr S. Venkatraman, Bill certifier in SAP system and the account department are only legally liable and responsible person. When this fact came to the knowledge of petitioner no. 1 he directly made contacts with the respective vendors and obtained revised and corrected bill from the vendors without observing formalities of receiving and filing bills. No entry of revised bills was made in centralize bill register maintained by works office. This shows that the petitioner no. 1 has got complicity and nexus with the vendors. The vendors are said to have admitted that it was their calculation mistakes and there was no hand of the complainant in calculation Mistakes being committed in the bills. The petitioner no.1- Mr. S. Venkatraman finding himself to be liable, responsible and legally accountable for wrong payment made to the vendor M/s Shree Interiors by the account department on the basis his order and direction. To cover up his negligence and the liability, responsibility and accountability and also falsely to implicate the O.P. No.2, informed the petitioner no. 3-Mr. Anjan Dasgupta Chief Vigilance, Tata Steel Limited. On 26.4.2016, at about 11 A.M., the O.P. No.2 was called on cell phone by petitioner no. 2 Mr. Harjit Singh to come to his office immediately. When O.P. No.2 went to the chamber of petitioner no. 2-Mr. Harjit

Singh he found petitioner no. 1 Mr. S. Venkatraman, petitioner no.2-Mr.Harjit Singh and accused no. 3-Mr. Anjan Dasgupta, Chief Vigilance of Tata Steel Limited along with other 3 unknown persons were present there in the chamber of petitioner no. 2 Mr. Harjit Singh. The petitioner no. 1 Mr. S. Venkatraman and the petitioner no. 2 Mr. Harjit Singh told the O.P. No.2 to answer the question of petitioner no. 3-Mr. Anjan Dasgupta. The petitioner no. 3 by exercising undue influence, coercion and threat obtained the signature and some writings of the complainant in question form on blank papers. All the three accused persons in collusion and complicity with each other by exercising undue influence and threat obtained the Bank account of the complainant and his wife. The complainant was also forcibly detained in the office of petitioner no. 2 for about three hours. On 27.4.2016, again the petitioner no. 2 Mr. Harjit Singh called the O.P. No.2 to his office when the O/P. No.2 went to the office of petitioner no. 2, the petitioner no. 3 Mr. Anjan Dasgupta brought the complainant O.P No.2 in library of TCIL where enquiry was made by petitioner no.3 Mr. Anjan Dasgupta and he forced to give details of bank account. The O.P. No.2 told that it was his personal account and then the petitioner no. 3 Anjan Dasgupta threatened and forced the O.P No.2 to give his bank details. Being influence by threat and coercion given by the petitioner no. 3 Mr. Anjan Dasgupta O.P No.2 gave the details of his bank account. It was pointed out by the O.P No.2 that loan was taken from the friends, society, relatives and parents. The loan return has also been shown in the account statement of the O.P.No.2. The petitioner no. 3 also made query in respect of the vendor's bill. The O.P No.2 told that he had counter signed over the bills but not made any recommendations to pass the bills. The complainant O.P.No.2 also told the vigilance people that the petitioner no. 3 is the passing and sanctioning authority of the vendor's bills and he also got facility and power to see purchase orders in SAP system whereas the O.P. No.2 had no power and facility to look purchase order in SAP. The O.P. No.2 also requested petitioner no. 3 to make query and enquiry from petitioner no.1- Mr. S. Venkatraman and from account department who may be sole liable and responsible for wrong passing and payment of the vendor bills. The petitioner no. 3 Mr. Anjan Dasgupta started to call the vendors and he pressurized the vendors to write something showing illegal gratifications against the complainant for falsely implicating the complainant in fabricated and concocted case. No document of any kind regarding payment of illegal gratification by any person was shown to the O.P. No.2. The O.P. No.2 was not aware of what kind of document have been fabricated and created by petitioner no. 1 against the O.P. No.2 from the vendors by exercising threat, coercion of being blacklisted and stop payment. The petitioner no. 3 accompanied three other unknown Vigilance persons made no enquiry and query from the petitioner no.1- Mr. S. Venkatraman and account department regarding passing and payment of wrong calculated bills submitted by M/s Shree Interiors in spite of his request made. It clearly indicates that the petitioner no. 3-Mr. Anajan Dasgupta is in collusion and conspiracy of petitioner no. 1 and 2 who appears to have managed petitioner no. 3-Mr. Anajan Dasgupta. The petitioner no. 3 had been simply called by petitioner no. 1-Mr S.

Venkatraman only for the purpose to save and protect him from the liability and accountability of the wrong payment made and for the purpose of falsely implicating the O.P.No.2 in a concocted case for tarnishing his image in a pre-planned manner. On 03.5.2016 at about 4 P.M. the petitioner no. 2-Mr. Harjit Singh called the O.P No.2 to come in his office immediately and when the O.P. No.2 entered into the cabin of petitioner no.2 he found petitioner nos. 1 and 2 along with some other officers of the company present there. Both the petitioner nos.1 and petitioner no.2 started threatening the O.P. No.2 and they were forcing the O.P. No.2 to give his resignation with immediate effect telling that Sr. Management team has taken decision to sack and not continue with the service. The O.P. No.2 wanted to know the reasons and demanded any document regarding complain and charges if made against the O.P. No.2 but both petitioner nos. 1 and 2 denied giving any document to the O.P. No.2 regarding charges whatsoever. The O.P. No.2 refused to give his resignation without any valid reason shown to him then petitioner nos. 1 and 2 abused the O.P. No.2 using unparliamentary languages and they told that they may dismiss O.P. No.2 with immediate effect or may terminate his services one month pre notice. The O.P. No.2 was illegally detained for more than two hours and not allowed to go outside from the office. In many ways, the O.P. No.2 was being humiliated and tortured by petitioner nos. 1 and 2. On 4.5.2016, when the O.P No.2 went to his office he found that his PC was blocked and Lotus-email was found disabled. The O.P. No.2 approached to the petitioner no.1 about the reason for blocking his PC and Lotus email without giving any prior information. The petitioner no. 1 gave no reasons and he abused the O.P.No.2 and dragged him out from his office telling that he will sack the O.P.No.2 immediately. The petitioner nos. 1 and 2 started calling the vendors and tried to create and manufactured documents against the O.P.No.2 by giving threats and coercion to the vendors.

4. Mr. Amit Kumar Das, learned counsel for the petitioners submits that petitioner no.1 is the Deputy General Manager of Tinsplate Company, petitioner no.2 is the Chief of Corporate Services of Tinsplate Company and petitioner no.3 is the Chief of Vigilance of Tata Steel Ltd., who was appointed as Enquiry Officer against the complainant and the complainant was employed as an Executive Officer to DGM (Works) of Tinsplate Company. He further submits that opposite party no.2 has passed the bill and allowed additional claims to the vendors which causes wrongful loss to the company and, therefore, show-cause was given to him, which was replied by him and thereafter enquiry was conducted and subsequently opposite party no.2 was suspended. He further submits that from the bank statement which has been annexed with the petition, it is crystal clear that on certain dates, the amount has been transferred in the bank account of wife of the complainant. He further submits that after the charge-sheet was submitted, opposite party no.2 has filed a title suit being Title Suit No.58 of 2016 before the court of the learned Civil Judge, Junior Division No.1, Jamshedpur seeking permanent injunction restraining the Management of Tinsplate Company India Limited and their authorities from holding any departmental enquiry and

also prayed for vacating the order of suspension. In the said suit, opposite party no.2 has made seven officers of the said Company as defendants and the injunction application was rejected by the learned Civil Judge, Junior Division No.1, Jamshedpur on 14.07.2016. He further submits that this fact has been conveniently suppressed by opposite party no.2 while filing the complaint case. He also submits that subsequently opposite party no.2 was terminated from service on 12.07.2016 and being aggrieved by the said order, opposite party no.2 has moved before the learned Labour Court, Jamshedpur, in B.S. Case No.6 of 2016, wherein he has challenged the order of termination and claimed for his reinstatement, which is pending. He further submits that in this background the opposite party no.2 has maliciously filed the complaint case against the petitioners and the learned court has taken cognizance, which is not in accordance with law. He also submits that so far as Sections 341, 348 and 506 of the Indian Penal Code are concerned, the ingredients of those sections are not made out against the petitioners, who are officials of the Tinplate Company. He further submits that the case of the petitioners is fully covered in light of the judgment passed by the Hon'ble Supreme Court in Anjani Kumar v. State of Bihar; [(2008) 5 SCC 248].

5. Paragraphs 12, 13 and 14 of the said judgment read as under:

"12. As the factual scenario goes to show the complaint filed on 4-2-1993 appears to be a counterblast by Respondent 2 for the action taken by the appellant against him.

13."7. The pivotal issue [i.e. applicability of Section 197 of the Code] needs careful consideration. In Bakhshish Singh Brar v. Gurmej Kaur [(1987) 4 SCC 663 : 1988 SCC (Cri) 29 : AIR 1988 SC 257] this Court while emphasising on the balance between protection to the officers and the protection to the citizens observed as follows :

'6. ... It is necessary to protect the public servants in the discharge of their duties. ... In the facts and circumstances of each case protection of public officers and public servants functioning in discharge of official duties and protection of private citizens have to be balanced by finding out as to what extent and how far is a public servant working in discharge of his duties or purported discharge of his duties, and whether the public servant has exceeded his limit. It is true that Section 196 states that no cognizance can be taken and even after cognizance having been taken if facts come to light that the acts complained of were done in the discharge of the official duties then the trial may have to be stayed unless sanction is obtained. But at the same time it has to be emphasised that criminal trials should not be stayed in all cases at the preliminary stage because that will cause great damage to the evidence.'

8. The protection given under Section 197 is to protect responsible public servants against the institution of possibly vexatious criminal proceedings for offences alleged to have been committed by them while they are acting or

purporting to act as public servants. The policy of the legislature is to afford adequate protection to public servants to ensure that they are not prosecuted for anything done by them in the discharge of their official duties without reasonable cause, and if sanction is granted, to confer on the Government, if they choose to exercise it, complete control of the prosecution. This protection has certain limits and is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection. The question is not as to the nature of the offence such as whether the alleged offence contained an element necessarily dependent upon the offender being a public servant, but whether it was committed by a public servant acting or purporting to act as such in the discharge of his official capacity. Before Section 197 can be invoked, it must be shown that the official concerned was accused of an offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties. It is not the duty which requires examination so much as the act, because the official act can be performed both in the discharge of the official duty as well as in dereliction of it. The act must fall within the scope and range of the official duties of the public servant concerned. It is the quality of the act which is important and the protection of this section is available if the act falls within the scope and range of his official duty. There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down any such rule. One safe and sure test in this regard would be to consider if the omission or neglect on the part of the public servant to commit the act complained of could have made him answerable for a charge of dereliction of his official duty; if the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant. This aspect makes it clear that the concept of Section 197 does not get immediately attracted on institution of the complaint case.

9. At this juncture, we may refer to *P. Arulswami v. State of Madras* [AIR 1967 SC 776] wherein this Court held as under :

'6. ... It is not therefore every offence committed by a public servant that requires sanction for prosecution under Section 197(1) of the Criminal Procedure Code; nor even every act done by him while he is actually engaged in the performance of his official duties; but if the act complained of is directly concerned with his official duties so that, if questioned, it could be claimed to have been done by virtue of the office, then sanction would be necessary. It is the quality of the act that is important and if it falls within the scope and range of his official duties the protection contemplated by Section 197 of the Criminal Procedure Code will be attracted. An offence may be entirely unconnected with

the official duty as such or it may be committed within the scope of the official duty. Where it is unconnected with the official duty there can be no protection. It is only when it is either within the scope of the official duty or in excess of it that the protection is claimable.'

10. Prior to examining if the courts below committed any error of law in discharging the accused, it may not be out of place to examine the nature of power exercised by the court under Section 197 of the Code and the extent of protection it affords to public servants, who, apart from various hazards in discharge of their duties, in absence of a provision like the one may be exposed to vexatious prosecution. Sections 197(1) and (2) of the Code read as under:

'197. Prosecution of Judges and public servants. —(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction—

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

(2) No court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.'

The section falls in the Chapter dealing with conditions requisite for initiation of proceedings. That is, if the conditions mentioned are not made out or are absent then no prosecution can be set in motion. For instance, no prosecution can be initiated in a Court of Session under Section 193, as it cannot take cognizance as a court of original jurisdiction, of any offence, unless the case has been committed to it by a Magistrate or the Code expressly provides for it. And the jurisdiction of a Magistrate to take cognizance of any offence is provided by Section 190 of the Code, either on receipt of a complaint, or upon a police report or upon information received from any person other than a police officer, or upon his knowledge that such offence has been committed. So far as public servants are concerned, the cognizance of any offence, by any court, is barred by Section 197 of the Code unless sanction is obtained from the appropriate authority, if the offence, alleged to have been committed, was in discharge of the official duty. The section not only specifies the persons to whom the protection is afforded but

it also specifies the conditions and circumstances in which it shall be available and the effect in law if the conditions are satisfied. The mandatory character of the protection afforded to a public servant is brought out by the expression, 'no court shall take cognizance of such offence except with the previous sanction'. Use of the words, 'no' and 'shall' makes it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete. The very cognizance is barred. That is, the complaint cannot be taken notice of. According to Black's Law Dictionary the word 'cognizance' means 'jurisdiction' or 'the exercise of jurisdiction' or 'power to try and determine causes'. In common parlance, it means taking notice of. A court, therefore, is precluded from entertaining a complaint or taking notice of it or exercising jurisdiction if it is in respect of a public servant who is accused of an offence alleged to have been committed during discharge of his official duty.

11. Such being the nature of the provision, the question is how should the expression, 'any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty', be understood? What does it mean? 'Official' according to the dictionary, means pertaining to an office, and official act or official duty means an act or duty done by an officer in his official capacity. In *B. Saha v. M.S. Kochar* [(1979) 4 SCC 177 : 1979 SCC (Cri) 939] it was held :

'17. The words "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty" employed in Section 197(1) of the Code, are capable of a narrow as well as a wide interpretation. If these words are construed too narrowly, the section will be rendered altogether sterile, for, "it is no part of an official duty to commit an offence, and never can be". In the wider sense, these words will take under their umbrella every act constituting an offence, committed in the course of the same transaction in which the official duty is performed or purports to be performed. The right approach to the import of these words lies between these two extremes. While on the one hand, it is not every offence committed by a public servant while engaged in the performance of his official duty, which is entitled to the protection of Section 197(1), an act constituting an offence, directly and reasonably connected with his official duty will require sanction for prosecution under the said provision.'

(emphasis in original)

Use of the expression, 'official duty' implies that the act or omission must have been done by the public servant in the course of his service and that it should have been in discharge of his duty. The section does not extend its protective cover to every act or omission done by a public servant in service but restricts its scope of operation to only those acts or omissions which are done by a public servant in discharge of official duty.

12. It has been widened further by extending protection to even those acts or omissions which are done in purported exercise of official duty. That is under the

colour of office. Official duty therefore implies that the act or omission must have been done by the public servant in course of his service and such act or omission must have been performed as part of duty which, further, must have been official in nature. The section has, thus, to be construed strictly, while determining its applicability to any act or omission in the course of service. Its operation has to be limited to those duties which are discharged in the course of duty. But once any act or omission has been found to have been committed by a public servant in discharge of his duty then it must be given liberal and wide construction so far as its official nature is concerned. For instance, a public servant is not entitled to indulge in criminal activities. To that extent the section has to be construed narrowly and in a restricted manner. But once it is established that that act or omission was done by the public servant while discharging his duty then the scope of its being official should be construed so as to advance the objective of the section in favour of the public servant. Otherwise the entire purpose of affording protection to a public servant without sanction shall stand frustrated. For instance, a police officer in discharge of duty may have to use force which may be an offence for the prosecution of which the sanction may be necessary. But if the same officer commits an act in course of service but not in discharge of his duty [and without any justification therefor] then the bar under Section 197 of the Code is not attracted. To what extent an act or omission performed by a public servant in discharge of his duty can be deemed to be official, was explained by this Court in *Matajog Dobey v. H.C. Bhari*

'17. ... The offence alleged to have been committed [by the accused] must have something to do, or must be related in some manner, with the discharge of official duty. ...

19. ... There must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable [claim], but not a pretended or fanciful claim, that he did it in the course of the performance of his duty.'

13. If, on facts, therefore, it is prima facie found that the act or omission for which the accused was charged had reasonable connection with discharge of his duty then it must be held to be official to which applicability of Section 197 of the Code cannot be disputed.

19. We may mention that the Law Commission in its 41st Report in Para 15.123 while dealing with Section 197, as it then stood, observed:

'It appears to us that protection under the section is needed as much after retirement of the public servant as before retirement. The protection afforded by the section would be rendered illusory if it were open to a private person harbouring a grievance to wait until the public servant ceased to hold his official

position, and then to lodge a complaint. The ultimate justification for the protection conferred by Section 197 is the public interest in seeing that official acts do not lead to needless or vexatious prosecution. It should be left to the Government to determine from that point of view the question of the expediency of prosecuting any public servant.'

It was in pursuance of this observation that the expression 'was' come to be employed after the expression 'is' to make the sanction applicable even in cases where a retired public servant is sought to be prosecuted."

14. When the factual background as noted above is considered on the touchstone of legal principles set out above the inevitable conclusion is that certainly mala fides were involved apart from the applicability of Section 197 of the Code. It is no doubt true that at the threshold interference by exercise of Section 482 of the Code has to be in rare cases. The present case appears to be of that nature and falls under Category (7) indicated in *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]. The continuance of the proceedings by the prosecution would amount to abuse of the process of law. The criminal proceedings in the Court of the learned Chief Judicial Magistrate, Begusarai in PS Case No. 63 of 1993 are quashed. The appeal is allowed."

6. Mr. Das, learned counsel for the petitioners further relied on the judgment passed by the Karnataka High Court in *Sri Samiulla B. v. State of Karnataka & others* in Writ Petition No. 9520 of 2022 (GM-RES).

7. Paragraph 5 of the said judgment reads as under:

"5. The case at hand is the one where the termination of the complainant happens pursuant to the losses incurred by the petitioner or the TTC news channel. Therefore, the criminal proceedings to be initiated as an alternate method to arm twist the petitioner instead of knocking the doors of an appropriate Court for an appropriate relief, cannot be permitted to continue, as it would result in abuse of the process of law and miscarriage of justice."

8. Mr. Das, learned counsel for the petitioners further submits that there are judgments of this Court as well as other High Courts that if the workman has filed the complaint case after termination of his service, that is malicious prosecution. On these grounds, he submits that entire criminal proceeding is required to be quashed by this Court.

9. On the other hand, Mr. Vishal Kumar, learned counsel for opposite party no. 2 submits that what has been argued by Mr. Das, learned counsel for the petitioners is also subject matter before the learned court which is being examined by the learned Labour Court. He further submits that the cognizance has been taken under Sections 341, 348 and 506 of the Indian Penal Code against the petitioners. He took the Court to one of the annexure of the counter affidavit wherein the certificate has been annexed and submits that the amount in question has already been returned back to one of the Director. He further

submits that the Court sitting under Section 482 Cr.P.C. may not exercise its power at this stage, as has been held by the Hon'ble Supreme Court in several judgments. He relied in *Rashmi Kumar (Smt.) v. Mahesh Kumar Bhada*; [(1997) 2 SCC 397]. By relying on this judgment, he submits that the ingredient has been made out against the petitioners and the learned court has rightly taken cognizance. He further relied upon the judgment in *Fakhruddin Ahmad v. State of Uttaranchal & another*; [(2008) 17 SCC 157]. By relying on this judgment, he submits that the cognizance order is in accordance with law and the prayer made in the petition is misconceived one and this Court may not entertain this petition under Section 482 Cr.P.C.

10. In light of the above submissions of the learned counsel for the parties, this Court has gone through the materials on the record and finds that the complaint case was filed alleging therein that in scrutiny it was detected that there was calculation mistakes in submitting the bills as the calculation was made in square inch instead of square ft. This was the mistake of contractors which could not be detected by opposite party no.2 earlier while counter signing and forwarding the bills as there was no copy of purchase order attached with the bill. Prima facie, it appears that for the action being taken by the Management, the complaint case has been filed by opposite party no.2 and the injunction application filed by opposite party no.2 was rejected by the learned Civil Judge, Junior Division No.1, Jamshedpur on 14.07.2016 and pursuant to filing of the charge-sheet and proper enquiry, the services of the petitioner has been terminated on 12.07.2016. Admittedly, the complaint case has been filed after submission of the charge-sheet and opposite party no.2 has implicated the petitioners, who are officials of the Company maliciously on the ground that they have proceeded against him. Admittedly in the case in hand, the opposite party no.2 has tried to restrained the Management by way of filing the suit to not to take any action against him for the said charge. The termination order is being examined by the learned Labour Court. It appears that since the opposite party no.2 has not been exonerated, he has filed the complaint case against the petitioners. Section 341 of the Indian Penal Code prescribes the punishment for wrongful restraint. In the case in hand, criminality is not made out against the petitioners as the action was taken against opposite party no.2, which is civil in nature. Section 348 of the Indian Penal Code prescribes for wrongful confinement to extort confession, or compel restoration of property. The ingredient of this section is not made out against the petitioners, who are the officials of the Company. There is no allegation of wrongful confinement to extort confession against the petitioners. Section 506 of the Indian Penal Code prescribes for punishment for criminal intimidation. What intimidation has been made by the petitioners, has not been made in the complaint case. Thus, the ingredients of these sections are not made out against the petitioners.

11. In view of the above facts, reasons and analysis, the entire criminal proceeding in connection with C/1 Case No.1497/2016 including the order dated 01.03.2017, pending in the court of the learned Judicial Magistrate, 1st Class,

Jamshedpur is, hereby, quashed.

12. Accordingly, this petition stands allowed and disposed of.

13. It is made clear that the proceeding which is pending before the learned Labour Court, Jamshedpur shall be decided on its own merit without being prejudiced to this order.

14. Interim order dated 11.04.2017 stands vacated.