

(2023) 03 JH CK 0013

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 2136 Of 2012

Sagar Mandal

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 15-03-2023

Acts Referred:

Indian Penal Code, 1860 — Section 323, 341, 427
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2023) 03 JH CK 0013

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : K.S.Nanda, S.K.Sinha

Final Decision : Dismissed

Judgement

Sanjay Kumar Dwivedi, J

On repeated call nobody has responded on behalf of the O.P.No.2 however Vakalatnama has been filed on behalf of the O.P.No.2.

This petition has been filed for quashing of the order taking cognizance dated 20.9.2012 passed by learned Judicial Magistrate, Ranchi, in Complaint Case No.160 of 2011 for the offence under section 341, 323, 427 of the IPC as well as confirming order dated 23.7.2012 passed by Judicial Commissioner Ranchi in Cr. Revision No.209 of 2011.

The complaint case has been filed alleging therein that he is posted as Jr. Engineer at Minor Irrigation Division, Khunti, however, he stays at Ranchi at New A.G. Colony, Kadru in a tenanted house and on 26.1.2011 at about 10.00 hours was in his house and talking with one Vijay Kumar, Santosh Kumar Sahu and Ajay Sahu but in the meantime Sagar Mandal and 3 unknown persons entered his house and started abusing him with filthy language and said that your brother has taken a sum of Rs.3,75,000/- and you pay it otherwise we will kill you and then all the accused persons started assaulting him by means of fists

and slaps. The other persons were sitting the complainant tried to pacify the matter. However, the accused persons ransacked his house causing loss of Rs.30,000/-. It is further alleged that the accused persons threatened that if you file a case then they will cause further loss to the complainant by saying that it is only a trailer and they are to watch full picture. It is further alleged that the informant went to Argora police station and reported the matter and the Argora Police assured him to take appropriate action against the accused persons but no action whatsoever was taken.

The learned counsel for the petitioner submits that with malafide intention the present case has been filed. He submits that the petitioner earlier filed the case against the complainant and this is a case of counter blast case and he submits that the learned revisional court has not considered the facts and passed the cryptic order affirming the order taking cognizance which is also a non-speaking order.

Mr. Sinha, the learned counsel for the respondent State submits that the learned trial court as well as the revisional court has passed the order which is in accordance with law and there is no illegality in the impugned order.

In view of the submission of the learned counsel appearing for the parties, the Court has gone through the materials on record including the complaint petition as well as the order taking cognizance and the revisional order. There are allegation of ransacking the house of the complainant by the accused persons. The accused persons have also threatened the complainant. Thus there are allegation against the petitioner. The learned trial court has taken cognizance looking to the solemn affirmation as well as the enquiry witnesses and the Court finds that the cognizance order is a well-reasoned order and there is no need of passing a detailed order for taking cognizance and only the prima facie materials are required to be disclosed in the order taking cognizance. The revisional court has been pleased to dismiss the revision petition considering that the only point was argued before the revisional court that the date of occurrence recorded 26.6.2011 whereas the occurrence was alleged to be taken place on 26.1.2011. The learned court has considered that the date of occurrence is provided 26.1.2011 and merely because in the impugned order date of occurrence has come as 26.6.2011 the entire criminal case is not required to be quashed and the learned revisional court has further stated that while taking cognizance the court is not required to scrutiny the materials in the complaint petition and only the prima facie case is required to be looked into. Thus, the revisional court order is also well reasoned order and there is no illegality in the said order. It is well settled that if no injustice is done in the garb of section 482 of the Cr.P.C the second revision is not maintainable. Accordingly, this petition is dismissed.

Pending petition is also dismissed accordingly.