
(2022) 07 JH CK 0028

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 1325 Of 2015

Sagir Ahmad And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 27-07-2022

Acts Referred:

Indian Penal Code, 1860 — Section 379, 385, 498A
Code Of Criminal Procedure, 1973 — Section 156(3)

Citation : (2022) 07 JH CK 0028

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amit Kumar Das, Ashok Kumar Sinha, Arup Kumar Dey

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Amit Kumar Das, learned counsel for the petitioners, Mr. Ashok Kumar Sinha (4), learned counsel for the opposite party no.2 and Mr. Arup Kumar Dey, learned counsel for the State.

2. This petition has been filed for quashing the entire criminal proceeding including the order dated 09.06.2014 passed in Complaint Case No.378 of 2014, pending in the court of the learned Chief Judicial Magistrate, Jamshedpur.

3. The complaint case was filed by opposite party no.2 against the petitioners alleging therein that he is a salesman cum In-charge of a shop of his father named as Beauty Center situated at Sakchi Market, Jamshedpur. On 04.11.2013, petitioner no.1 called the complainant on mobile demanding Rs.15 Lakhs as rangdari to be paid within 15 days, otherwise to face dire consequences. It was further alleged that again on 05.11.2013, petitioner no.2 called the complainant on his landline phone and demanded Rs.15 Lakhs saying that if said amount is not paid, then he will be killed. It was further alleged that thereafter petitioner no.1 again repeated such demand and threatened to kill the complainant and his

family. It was further alleged that on 09.11.2013 at 08:30 p.m. the three accused persons along with two unknown persons came on motorcycle and entered the shop of the complainant. Petitioner no.1 and two unknown persons were armed with pistol and remaining two lady accused were holding daggers. By pointing pistol on the complainant, petitioner no.1 and petitioner no.2 demanded Rs.15 Lakhs, but the complainant refused to make payment. Then, petitioner no.2 ordered to kidnap the complainant and on point of pistol by petitioner no.1 and two unknown criminals, dragging the complainant holding his hair, he was taken out of his shop. On hearing hue and cry, the neighbouring shopkeepers assembled, but they were threatened by guns. However, the shopkeepers managed to save him and the accused fled away. It was further alleged that the accused snatched Rs.35,000/- from the pocket of the complainant.

4. Mr. Amit Kumar Das, learned counsel for the petitioners submits that petitioner no.1 is the brother-in-law of opposite party no.2, petitioner no.2 is the wife of opposite party no.2 and petitioner no.3 is the unmarried sister-in-law of opposite party no.2. He further submits that petitioner no.2 has filed a case under Section 498A of the Indian Penal Code against opposite party no.2 and in that case, opposite party no.2 is facing trial. He also submits that opposite party no.2 has lodged a complaint being C/1 4492 of 2013 on 12.11.2013 against the petitioners, which was sent to the police under Section 156(3) Cr.P.C. and the police investigated the matter and submitted final form whereby the petitioners have not been sent up for trial.

In the final form, it was disclosed that due to enmity, that case was filed by opposite party no.2. He further submits that on the protest petition filed by opposite party no.2, the learned court has taken cognizance under Sections 379 and 385 of the Indian Penal Code against the petitioners. He also submits that in the solemn affirmation, the learned court has put question about the relationship between opposite party no.2 and the petitioners, wherein, it was falsely stated by opposite party no.2 that there is no relationship between them, whereas, the fact remains that there are relationship between the petitioners and opposite party no.2. According to him, the order taking cognizance is not in accordance with law.

5. On the other hand, Mr. Ashok Kumar Sinha (4), learned counsel for opposite party no.2 by way of referring the cognizance order submits that the learned court has applied its mind and thereafter has taken the cognizance on the protest filed by opposite party no.2.

6. Mr. Arup Kumar Dey, learned counsel for the State has supported the cognizance order.

7. In light of the above submissions of the learned counsel for the parties, the Court has gone through the materials on the record and finds that petitioner no.2 has filed a case under Section 498A of the Indian Penal Code against opposite

party no.2 on 15.12.2012 and opposite party no.2 is facing trial in that case. These facts have not been denied by the learned counsel for opposite party no.2. Thereafter, by retaliation the opposite party no.2 filed Complaint Case No.4492 of 2013 on 12.11.2013. A thorough investigation was made by the police and thereafter final form was submitted whereby the petitioners have not been sent up for trial and on the protest petition, the learned court has taken cognizance against the petitioners. Before the learned court also, the opposite party no.2 has denied relationship between the parties, whereas, opposite party no.2 is facing trial under Section 498A of the Indian Penal Code, filed by petitioner no.2, which shows that the statement of having no relationship with the petitioners before the court was falsely stated by opposite party no.2. In the final form, it has been disclosed that due to enmity, opposite party no.2 has tried omission of facts to the court. It appears that by way of retaliation, the complaint case has been filed by opposite party no.2 against the petitioners, who are brother-in-law, wife and unmarried sister-in-law of opposite party no.2. Moreover, the learned court has taken cognizance only on solemn affirmation and considering two enquiry witnesses. However, the learned court has not given any reason of differing with the final form. It appears that the case has been maliciously filed by the opposite party no.2.

8. In view of the above facts, reasons and analysis, the entire criminal proceeding including the order dated 09.06.2014 passed in Complaint Case No.378 of 2014, pending in the court of the learned Chief Judicial Magistrate, Jamshedpur is, hereby, quashed.

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

10. Consequently, I.A. No. 8928 of 2018 stands disposed of.

11. Interim order dated 28.09.2015 stands vacated.