
(2015) 10 JH CK 0023
In the Jharkhand High Court
Case No : Criminal M.P. No. 1735 of 2015

Salim Javed

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-10-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 197, 219, 482
Penal Code, 1860 (IPC) — Section 406, 419, 420, 467, 468

Citation : (2015) 4 JLJR 580

Hon'ble Judges : Amitav Kumar Gupta, J.

Bench : Single Bench

Advocate : R.S.P. Sinha and R.K. Sinha, for the Appellant

Final Decision : Dismissed

Judgement

Amitav Kumar Gupta, J.—This revision is directed against the order dated 10.3.2015 passed by the learned Chief Judicial Magistrate at Chatra in Sadar P.S. Case No. 203/2010 and also the revisional order dated 29.6.2015 passed against that order by the learned Sessions Judge, Chatra in Cr. Revision No. 33/2015. Learned counsel for the petitioner has submitted that the learned court below has failed to appreciate the fact that the petitioner was elected as the Vice-Chairman and was made In-charge Chairman of the Municipality after the demise of the sitting Chairman on 4.6.2009. That he had lodged a written complaint with the Officer-in-charge, Chatra Sadar Police Station on 31.12.2010 (Annexure-1) and also informed the Executive Officer and His Excellency, the Governor of Jharkhand vide letters dated 28.7.2010 and 18.8.2010 (Annexures-4 and 5) regarding the illegal and irregular acts in the matter of financial dealings by the Executive Officer/Superintending Officer of Municipal Authority as orders were passed by the Executive Officer without getting the approval of Vice-Chairman/Chairman. It is argued that since the petitioner had complained about the illegal acts hence, in retaliation the present F.I.R. has been lodged by the authorities of the Corporation in collusion with the staff and other officers. The allegation that

petitioner had taken away some important documents from the office of Municipal Corporation and did not return the same despite repeated demands is false and concocted, as the petitioner, in the capacity of Vice-Chairman and In-charge Chairman of the said Municipal Corporation, had the authority and jurisdiction to take any document for perusal, hence, the allegation is vexatious because the petitioner did not retain any documents of the Corporation and the allegation has been made with a vexatious and malicious intention since the petitioner, as stated above, had lodged written complaints regarding the misdeeds and illegal acts committed by the Executive Officer in connivance with Ward Commissioner and staff of the said Municipal Corporation. It is further submitted that the court below has failed to appreciate that no show cause or explanation was issued to the petitioner without obtaining sanction under Section 197 Cr.P.C., the present case has been lodged out of vengeance and to pressurise the petitioner from raising his voice regarding the illegal acts and deeds of the member and officer of the Corporation. There is no material on record to make out a prima facie case under Sections 419, 420, 467, 468, 471, 472 and 406 IPC against the petitioner.

It is contended that the impugned order has been passed in an arbitrary manner without appreciating the material evidences. Accordingly in the absence of any material on record the impugned order is fit to be quashed.

2. Learned A.P.P. has contended that the minutes of the proceedings and resolution of the meeting of the Nagar Parishad forms part of the F.I.R. That it would be evident that one Assistant, namely, Kanti Sinha, posted in the Chatra Municipality had lodged a written complaint with the Officer-in-charge, Chatra Sadar Police Station stating that the petitioner with a view to manipulate the documents of the Municipality had forcibly taken the birth and death register from her and in spite of repeated request did not return those documents. That it would be evident from the order passed in Cr. Revision No. 33/2015, that the learned Judge has considered the materials available on record and statement of the witnesses available in paras 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25, 40, 43, 47, 49, 69, 79 and 80 of the case diary and has recorded his satisfaction that the materials on record establish the complicity of the petitioner in the alleged crime.

3. Heard. Perused the impugned order. At the outset it is necessary to state that principles relating to exercise of jurisdiction while invoking inherent power under Section 482 Cr.P.C., have been delineated and reiterated by the Supreme Court, in a catena of decisions. It is settled legal position that the power under Section 482 Cr.P.C. has to be exercised sparingly and with great circumspect to prevent inter alia the abuse of process of any court and to secure the ends of justice. At this stage the jurisdiction of the trial court cannot be ignored by the High Court by holding parallel trial. It is well settled that though no straitjacket rule can be laid down regarding the exercise of jurisdiction under Section 482 Cr.P.C., nevertheless it is dependant upon the facts and circumstances of each case and

if it is found that the uncontroverted allegation made in the F.I.R., discloses that a prima facie case is made out then in exercise of power under Section 482 Cr.P.C., the court should not delve into the questions of fact by conducting a mini trial.

Keeping in mind the settled principles, it is evident that the learned court has considered and appreciated the materials on record collected during investigation and recorded its satisfaction that prima facie case is made out for proceeding and putting the petitioner on trial for the offences under Sections 419, 420, 467, 468, 471, 472 and 406 IPC. It is pertinent to mention that at the time of framing of charge the trial court is not required to delve deep into the probative value of the documents and the court can sift and weigh, the pros and cons of the evidence only for the limited purpose to evaluate that from the materials on record it can be presumed that material evidence if considered on face value, reasonably connects the accused with the crime.

The plea regarding sanction under Section 197 Cr.P.C. is left open to be considered by the trial court at the appropriate stage of the trial whether sanction is mandatory in terms of Section 197 Cr.P.C. in the present case and whether the petitioner was holding a public office at the time of institution of the case.

4. In view of the materials on record and in the attending facts and circumstances, there is no illegality or impropriety in the impugned order warranting any interference by this Court.

5. The petitioner is at liberty to move the court below for trial of both the case, i.e., Sadar P.S. Case No. 202/2010 and Sadar P.S. Case No. 203/2010, in terms of Section 219 Cr.P.C. as it is not proper to pass such an order during the hearing of the revision. In the result, the application stands dismissed.