

(2015) 09 JH CK 0048
In the Jharkhand High Court
Case No : Criminal M.P. No. 704 of 2008

Shantanu Kumar Choudhary

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 144, 482
Penal Code, 1860 (IPC) — Section 147, 148, 426, 427, 450

Citation : (2015) 4 JLJR 247

Hon'ble Judges : Harish Chandra Mishra, J.

Bench : Single Bench

Advocate : Mahesh Tiwary, for the Appellant; Lily Sahay, for the Respondent

Final Decision : Allowed

Judgement

Harish Chandra Mishra, J.—Heard learned counsel for the petitioner and the learned counsel for the State as also learned counsel for the informant. The petitioner has filed this application for quashing the entire criminal proceeding against him in Dhanbad P.S. Case No. 149 of 2008, corresponding to G.R. No. 654 of 2008, instituted for the offence under Sections 147, 148, 426, 427, 450 and 506 of the Indian Penal Code.

2. The police case was instituted and on the basis. of Complaint Case No. 366 of 2008, filed by the complainant informant in which it is alleged that on 6.2.2008 at about 11:00 a.m. the accused persons, including the petitioner, along with 50 to 60 anti-social elements variously armed, attacked the market place of the complainant and damaged his property. Upon being informed, the police also reached there but the police remained a mere spectator and the offence was committed by the accused persons. With these allegations the complaint case was filed in the Court of the Chief Judicial Magistrate, Dhanbad, which was sent for institution of the police case, on the basis of which the police case was instituted.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case with absolutely false and malicious allegations in the complaint petition, in as much as, there was land dispute between the parties and there was a title suit between the parties with respect to the same land, in which the petitioner was the plaintiff. The said title suit was decided by judgment dated 29.11.2007 passed by the learned Sub-Judge-1, Dhanbad, in Title Suit No. 190 of 1987, in which it was held that the sale deeds in favour of the respondents, including the informant in the present case, were null and void. The judgment of the title suit has been brought on record. It is also submitted by learned counsel for the petitioner that the land in dispute was the subject matter of Urban Land Ceiling Act and the date of occurrence, i.e., 6.2.2008 was fixed by the authorities concerned for demarcation of the land, and after notice the concerned authorities with the police party had reached the place of occurrence for demarcation, which was being objected by the informant's side. It is also submitted that prior to filing of this case the informant had also filed a miscellaneous case in the Court of the Chief Judicial Magistrate, Dhanbad, which was registered as Misc. Case No. 357 of 2008, with the same allegations, wherein report was called for by the learned Chief Judicial Magistrate, Dhanbad, which was submitted by the Inspector of Police on 15.2.2008. In the said report, the entire facts have been stated and it is also stated that the land belonged to the State Government as it was taken under the Urban Land Ceiling Act, and on 6.2.2008 the land was to be demarcated under the orders of the Circle Officer, Dhanbad, and the police party was also deputed there for the purpose. Both the parties were also present there and taking into consideration the land dispute between the parties, the proceeding under Sections 107 and 144 of the Cr.P.C., was also initiated against the parties. The said report has also been brought on record as Annexure-7.

4. Placing reliance on these documents, learned counsel submitted that concealing all these facts the complaint petition has been filed by the complainant with absolutely false and malicious allegations, on the basis of which the police case was instituted. Learned counsel accordingly, submitted that this is a fit case for quashing the entire criminal case against the petitioner.

5. Learned counsel for the State as also learned counsel for the informant have opposed the prayer. The informant has also filed the counter-affidavit in the case. It is submitted by learned counsel for the informant that land dispute apart, on the basis of the allegations made in the complaint petition the offence is clearly made out against the petitioner and as such there can be no interference in the criminal proceeding against the petitioner at this stage. In the counter-affidavit the informant has brought on record the order passed in title appeal against the said judgment of the learned Sub-Judge-1, Dhanbad, in Title Suit No. 190 of 1987, discussed above.

6. It is thus apparent from the record that there is land dispute between the parties with respect to the land in question and in the complaint petition all these

facts have been concealed by the complainant and it is only alleged that the accused persons had attacked the market place of the petitioner and had damaged the property.

7. In the facts of this case, I am of the considered view that the complaint petition has been filed with absolutely false and malicious allegations and intentionally concealing the real facts of the case. As such, it is a fit case for exercise of the inherent power under Sections 482 of the Cr.P.C., for quashing the F.I.R. Accordingly, the F.I.R. in Dhanbad P.S. Case No. 149 of 2008, corresponding to G.R., No. 654 of 2008, including the Complaint Case No. 366 of 2008, on the basis of which the F.I.R. was lodged, are hereby quashed. This application is accordingly, allowed.