
(2012) 05 JH CK 0022
In the Jharkhand High Court
Case No : Writ Petition (Cr.) No. 135 of 2002

Sidheshwar Prasad

APPELLANT

Vs

The State of Jharkhand and Anand Kumar

RESPONDENT

Date of Decision : 04-05-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202
Penal Code, 1860 (IPC) — Section 379, 504

Citation : (2012) 3 JLJR 138

Hon'ble Judges : Prashant Kumar, J

Bench : Single Bench

Advocate : D.K. Prasad, for the Appellant; Rajesh Kumar, G.P.-V. for the State, for the Respondent

Judgement

Prashant Kumar, J.—This application has been filed for quashing the order dated 20.07.2001 in connection with P.C.R. Case No. 621 of 2000 corresponding to T.R. No. 698 of 2001, whereby and whereunder the learned court below took cognizance of the offence under Sections 379 & 504 of the I.P.C. against the petitioner. It appears that Respondent no. 2 has filed a complaint on 14.09.2000 alleging therein that petitioner along with other accused persons came to his house and demanded Rs. 2000/- from the complainant alleging that complainant is committing theft of electrical energy. It is further stated that when complainant stated that he is a regular consumer, the petitioner instigated other accused persons for taking away electrical wires and other electrical equipments from the house of complainant.

2. It appears that the court below after making inquiry u/s 202 of the Cr.P.C. took cognizance under Sections 379 & 504 of the I.P.C. against the petitioner vide order dated 20.07.2001.

3. Sri D.K. Prasad, learned counsel for the petitioner submits that the complainant filed present case with mala fide intension only with a view to take vengeance from petitioner because he filed a case against the complainant's

father for theft of electrical energy vide Godda P.S. Case No. 210 of 2000. It is submitted that the aforesaid F.I.R. was lodged on 14.06.2000 and complainant's father was taken into custody. He submits that father of complainant released on bail. The present case filed in the month of September by the son of complainant. It is submitted that present case may be quashed in view of judgment of Hon''ble Supreme Court in State of Haryana and others Vs. Ch. Bhajan Lal and others,

4. From perusal of record, it appears that notice has been issued to the respondent no. 2, but in spite of service of notice, he did not appear this case.

5. Having heard the counsel for the petitioner, I have gone through the record of the case. It appears from Annexure-2, the F.I.R. of Godda P.S. Case No. 210 of 2000 that petitioner being Assistant Electrical Engineer lodged a case against father of the respondent no. 2, alleging therein that on 14.06.2000 in the evening he conducted raid along with other officials of Electricity Board in the house of complainant's father and found that father of respondent no. 2 illegally extracting electrical energy. Accordingly, the electrical equipments were seized and seizure list prepared. It appears that father of respondent no. 2 was arrested in that case and later on released on bail. It further appears that the present complaint has been filed by respondent no. 2 for the same occurrence. It further appears that the said complaint was filed on 14.09.2009 i.e. after three months. Thus, from the facts of the case, it appears that the present complaint has been filed as a counter blast to earlier F.I.R. in which father of respondent no. 2 has been made accused.

6. Under the said circumstance, I find force in the submission of learned counsel for the petitioner that the present case filed by complainant with a view to take revenge, as petitioner lodged F.I.R. against father of respondent no. 2. Thus, in my view, the present case is covered by the judgment of their lordships of Supreme Court in State of Haryana Vs. Bhajanlal (Supra). In view of discussions made above, impugned order dated 20.07.2001 in connection with P.C.R. Case No. 621 of 2000 corresponding to T.R. No. 698 of 2001, pending in the court of Judicial Magistrate, 1st Class, Godda is hereby quashed.