
(2012) 04 JH CK 0057

In the Jharkhand High Court

Case No : Criminal Miscellaneous No. 7732 of 2000 (R)

Subroto Chakrabarty

APPELLANT

Vs

The State of Bihar (Now Jharkhand) and Another

RESPONDENT

Date of Decision : 09-04-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 406, 420

Citation : (2013) 1 BC 321 : (2012) 3 JLJR 272

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : M.K. Laik, for the Appellant;

Final Decision : Allowed

Judgement

H.C. Mishra, J.—By Court.--Heard learned counsel for the petitioner and learned counsel for the State. No one appears for the opposite party No. 2 even though the notice has been validly served upon the said opposite party No. 2. The petitioner has been made accused in Complaint Case No. 695 of 1998 filed in the Court of Chief Judicial Magistrate, Ranchi, by the complainant Sardar Singh, opposite party No. 2 in this case.

Apart from the other accused persons, the petitioner has been made accused in this case showing that the petitioner was posted as Branch Manager in the Central Bank of India, Silchar Branch, in the State of Assam.

2. From perusal of the complaint petition, it appears that the complainant had made some deposits with the M/s Telco Dealers Leasing and Finance Company Ltd., Bombay on 19.5.1995 jointly with his son. Subsequently, one cheque was issued through registered post and it appears that the complainant did not receive the same. The complainant was asked to file indemnity bond for issuance of the duplicate cheque, which was filed by the complainant. Subsequently, the Finance Company informed the complainant that the earlier cheque issued in favour of the complainant had been withdrawn at Silchar, Assam.

3. The only allegation that has been made with respect to the petitioner in the complaint petition is that the complainant was informed by the Central Bank of India, Silchar Branch, Assam that the cheque had been encashed by some person impersonating himself as the complainant. The complainant alleged that the aforesaid cheque issued by the company had been credited by the Central Bank of India, Silchar, Assam within a few hours. This apart, there is no allegation against the petitioner in the entire complaint petition. The statement of the complainant was also recorded on solemn affirmation and it appears that there is no specific allegation against the petitioner therein.

4. The petitioner admittedly was posted at the relevant time at Central Bank of India, Silchar Branch in the State of Assam and he had no occasion to identify the complainant. Rather, it appears that the cheque was withdrawn by someone falsely impersonating to be the complainant, for which the petitioner cannot be said to have committed any offence.

5. This apart, there is no allegation in the entire complaint petition, or the statement of the complainant recorded on solemn affirmation making any specific allegation against the petitioner. However, by the impugned order dated 26.3.1999 passed in Complaint Case No. 695 of 1998, the Court below has found prima facie case against the petitioner for the offence under Sections 406, 420, 120B of the Indian Penal Code and has ordered for issuance of process against him as well.

6. Learned counsel for the petitioner has submitted that the initiation of the criminal proceeding against the petitioner in Complaint Case No. 695 of 1998 as also the impugned order passed by the learned Judicial Magistrate, 1st Class, Ranchi in the said complaint case are absolutely illegal inasmuch as, the petitioner admittedly was posted at Silchar, in the State of Assam and the offence if any was committed at Assam. It has also been submitted that in the entire complaint petition there is no allegation against the petitioner and as such the petitioner could not have been made accused and no prima facie case has been made out against the petitioner for the offence under Sections 406, 420, 120B of the Indian Penal Code. Learned counsel has, accordingly, submitted that the criminal proceeding against the petitioner is fit to be quashed.

7. Learned counsel for the State, on the other hand, opposed the prayer submitting that on the basis of the material on record, the Court below has found that the prima facie case against the petitioner also.

8. After having heard both the sides and upon going through the record, I find that there is no allegation against the petitioner in the entire complaint petition. According to the complainant the petitioner was posted at Central Bank of India, Silchar Branch in the State of Assam and the only material in the complaint petition is that the complainant was informed that someone impersonated as complainant for withdrawing the money at Assam and there is no allegation against the petitioner in the complaint petition or in the statement of the

complainant recorded on S.A.

9. In my considered view, on the basis of material brought on record, no offence can be said to be made out against the petitioner for the offence under Sections 406, 420, 120B of the Indian Penal Code. Accordingly, the petitioner cannot be compelled to face the trial for the said offence. In view of the aforesaid discussions, the criminal proceeding against the petitioner in Complaint Case No. 695 of 1998, then pending in the Court of Sri S.K. Verrna, learned Judicial Magistrate, 1st Class, Ranchi and the impugned order dated 26.3.1999 passed therein, are hereby, quashed so far as the petitioner Subroto Chakrabarty is concerned. This application is, accordingly, allowed.