

(2014) 05 JH CK 0030
In the Jharkhand High Court
Case No : Cr. M.P. No. 2178 of 2013

Udai Singh @ Udai Pratap Singh, Narvadeshwar Singh,
Gangeshwar Singh and Bateshwar Singh

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 06-05-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 147, 148, 149, 323
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 4

Citation : (2014) 3 JLJR 124

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : Jai Shankar Tripathy, Advocate for the Appellant

Final Decision : Allowed

Judgement

Rakesh Ranjan Prasad, J.—Mr. Jaishankar Tripathy, learned counsel appearing for the petitioners submits that a first information report was lodged, which was registered as Kandi P.S. Case No. 76 of 2011, under Sections 147, 148, 149, 323, 386, 120B, 379 of the Indian Penal Code and also u/s 3 & 4 of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act. The matter was taken up for investigation. During investigation, the police did not find the allegations to be true and, hence, submitted final form after recording that there had been series of litigation in between the parties. In spite of that the Court took cognizance of the offences, as aforesaid without assigning any reason and, thereby, the Court did commit illegality in view of the decision rendered in a case of Dr. Mrs. Nupur Talwar Vs. C.B.I., Delhi and Another, and also in view of the decision rendered in a case of GHCL Employees Stock Option Trust Vs. India Infoline Ltd., , whereby the Hon"ble Supreme Court has been pleased to observe that the Court, in such situation, requires to pass order by assigning reason but since no reason has been assigned for holding that prima facie materials are there, order impugned is fit to be set aside.

2. As per the counsel appearing for the petitioners final form was submitted by the police when the allegations, made in the FIR against the petitioners, were not found to be true. In spite of that the Court took cognizance of the aforesaid offences against the petitioners without assigning any reason as to on what basis it has come to the conclusion that prima facie materials are there against the petitioner.

3. In that event, the impugned order dated 21/08/2012, taking cognizance against the petitioners, is hereby set aside and the matter is remanded back to the Court concerned for passing a fresh order in accordance with law.

4. In the result, this application stands allowed.