
(2011) 04 JH CK 0091

In the Jharkhand High Court

Case No : Criminal M.P. No. 4472 of 2001

Yogendra Pandit and Rajesh Kumar Tewari

APPELLANT

Vs

The State of Jharkhand and Another

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 204
Penal Code, 1860 (IPC) — Section 120B, 406, 420, 468

Citation : (2011) 04 JH CK 0091

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.R. Prasad, J.—This application has been filed for quashing of the entire criminal proceeding of PCR Case No. 424 of 2007 (T.R. No. 910 of 2000) including the order dated 30.01.2001, passed by learned Judicial Magistrate, 1st Class, Dumka, whereby and whereunder the learned Magistrate after taking cognizance of the offences under Sections 406/420 of the Indian Penal Code issued process u/s 204 Code of Criminal Procedure against the Petitioners.

2. It appears that the complainant-Opp. Party No. 2 filed a complaint in the court of learned Chief Judicial Magistrate, Dumka, stating therein that Satyadarshi Savings & Finance Ltd. opened a Branch Office in the year 1992 at Dumka. On such opening, the complainant and also the witnesses on being induced by the Branch Manager (Accused No. 1) and Accused No. 2 (both not the Petitioner), started depositing money under daily and monthly deposit scheme at Dumka Branch.

3. In the year, 1996, when the complainant came to Branch Office for depositing the money, he was shocked to know that the Branch Office is closed and thus, it was alleged that all the accused persons cheated the innocent persons including the complainant and misappropriated a huge sum including a sum of Rs. 21,300/- deposited by the complainant, under daily deposit scheme and,

thereby, the accused persons committed an offence under Sections 406/420/468/120B of the Indian Penal Code.

4. Upon statement being recorded of the complainant on solemn affirmation, the matter was taken up for inquiry u/s 202 Code of Criminal Procedure whereby the witnesses were examined. Thereupon, the court, after finding that prima facie case is made out u/s 420/406, passed an order on 30.01.2001 for issuance of process u/s 204 Code of Criminal Procedure.

5. Being aggrieved with that order, this application has been filed for quashing of the entire criminal proceeding and also order summoning the Petitioners.

6. After going through the record, I do find that the Petitioners, being the Directors of Satyadarshi Savings & Finance Ltd., have been made as accused Nos. 3 & 6 though there appears to be no allegation against them to attract the offences as alleged rather the allegation is upon the accused Nos. 1 & 2 wherein it has been stated that on their assertions that the complainant will have bright future, the complainant started investing money in daily deposit scheme. No allegation whatsoever is there against these Petitioners of playing any fraudulent and dishonest act, leading the complainant to invest the money in the Company nor there has been allegation of money being entrusted to these Petitioners. It is also not there that the Petitioners were concerned with day to day affairs of the company. At the same time, it be noticed that the statement has been made in the petition that not a single witness, who has been examined u/s 202 Code of Criminal Procedure has whispered anything about these Petitioners.

7. That statement has been replied with in the counter affidavit but there has been no denial of the fact stated above. Nothing has been disclosed to show indulgence of these Petitioners, in the alleged offence.

8. Thus, no element is there for constituting of an offence either u/s 406 or u/s 420 of the Indian Penal Code, so far these Petitioners are concerned.

9. Accordingly, entire criminal proceeding of PCR Case No. 424 of 2007 (T.R. No. 910 of 2000) including the order dated 30.01.2001 under which cognizance of the offence under Sections 406/420 of the Indian Penal Code was taken against these Petitioners are, hereby, quashed, so far it relates to these Petitioners.

10. Thus, this application is allowed.