

Bhaskar Chattoraj

Vs

State of W.B.

Criminal Appeal No. 644 of 1990

(S.R. Pandian, Smt. M.S. Fathima Beevi, K. Jayachandra Reddy JJ)

14.11.1990

JUDGMENT

S. RATNAVEL PANDIAN J

1. Special leave granted.

2. We heard learned counsel for both the parties for a considerable length of time and waded through the entire records. The High Court by its impugned order has expressed its disinclination to quash the criminal proceedings instituted against the appellant for an offence under S. 448, IPC and dismissed his petition on the ground that a perusal of the documents submitted under S. 173 of the Code of Criminal Procedure has spelt out a prima facie case against the appellant for his trial for the said offence. It transpires from the records that this appellant along with two others are put up for the trial. The charge levelled against the other two accused persons is under Ss. 448 and 380, IPC while the charge against the appellant is only under S. 448, IPC as aforementioned. Be it noted that though S. 448 is a summons case as the appellant is put on joint trial along with the other two accused against whom the charges are framed inclusive of a warrant case under S. 380, IPC, a separate charge has been framed against his appellant.

3. This prosecution is instituted by a complaint given by one K. D. Narayan, Director of Sangita Estates Private Limited dated 13-11-85 in continuation of the earlier complaint dated 10-11-85 followed by a further report dated 15-11-85 in which a vague allegation is levelled against the appellant reading, "We suspect that our Durwan has been moved away by Mrs. C. Solomon and Shri Bhaskar Chattaraj with the assistance/help/support of Shri Suniti Chattaraj. We carefully and meticulously went through the entire reports as well as the statements of the witnesses recorded under S. 161 of the Criminal Procedure Code during the course of the investigation and on perusal of the records, we are satisfied that there is no material connecting the appellant with the alleged offence of criminal trespass. The learned counsel appearing on behalf of the respondent is not able to satisfy us showing any material that would justify the implication of the appellant with the offence for which he now stands charged. In our considered opinion, no conviction can be recorded on the mere vague allegations, that too made only in the petition, dated 15-11-85 and as such the entire proceedings as against this appellant is only an abuse of the process of the Court. In view of the above circumstances, we quash the charge framed as against this appellant under S. 448, IPC. Before parting with the judgment, we make it clear that we are not expressing any opinion on the merits of the case of the other accused and the Court trying the case shall not be influenced by any of the observations made in this judgment or by this order quashing of the charge under S. 448, IPC

in respect of this appellant. In the result, we set aside the impugned order of the High Court and quash the entire proceedings as against this appellant.

4. The appeal is allowed accordingly.

Appeal allowed.

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