

SUPREME COURT OF INDIA

Ram Babu

Vs.

State of M.P.

Crl.A.No.962 of 2009

(Tarun Chatterjee and H.L. Dattu JJ.)

08.05.2009

JUDGEMENT

H.L. Dattu,J.

1. This is a petition for special leave to appeal under *Article 136 of the Constitution* from the judgment and order passed by the High Court of Madhya Pradesh, Bench at Gwalior, in M.Cr.C. No.2216 of 2006, dated 2.11.2006. We grant special leave and dispose of this appeal.

2. By the judgment and the order impugned, High Court under Section 482 of the Code of Criminal Procedure has quashed the complaint as also the summons issued to the accused persons (Respondents Nos. 2 and 3) by the Judicial Magistrate, First Class, Gohad, District Bhind.

3. The trial arose out of a private complaint filed by the complainant against the accused persons for offences under Section 420, 467, 471, 323, 1 506B and 120-B of the Indian Penal Code and Section 3(2)(5) of the *Scheduled Caste Scheduled Tribes Prohibition of Atrocities Act* (herein after called the "S.C.S.T. Act"). The learned Judicial Magistrate First Class, Gohad, has taken cognizance and has issued summons against the accused persons.

4. In order to appreciate the stance of the complaint, it is necessary to understand the backdrop of the complaint. On 25.4.2006, the appellant made a complaint, inter-alia alleging that his sons, namely, Devendra Pratap and Munendra Pratap produced petroleum products from polythene, and they demonstrated their invention at different levels by participating in various Science Competitions and also received recognition and reward from various organisations. On 5.12.2005, accused Sanjay Singh and Jayendra Singh requested the complainant's sons to hand over the photos of the Model for production of Petrol from Polythene to them, so that they can get it published in newspapers. The complainant's sons conceded to their request, but to their surprise, accused Sanjay Singh and Jayendra Singh got the invention published in their own name and affixed their own photographs, for taking direct or indirect benefits, by committing forgery. It is further alleged in the complaint, that,

the newspaper reporters, Shyam Vajpai and Karan Singh of "Dainik Swadesh" and "Nav Bharat", respectively, conspired with the accused and published the news on the basis of forged documents, without inquiring whether the same are genuine or not.

5. It is further stated, that, when the complainant's sons asked the accused for return of the photos of the model, the accused persons abused and used names like CHAMRA etc. and also threatened to kill them. The appellant filed complaint with regard to cheating before the Senior Police Officers and also before the other Government agencies, but that did not yield any result. It is further stated that on the request made by them under Right to Information Act, 2005, from the concerned authorities they have been informed that the accused Sanjay Singh and Jayendra Singh did not make any model and did not participate in any competition and it was also revealed that, the accused persons have received prize money of Rs.10,000/- from the State Government on the basis of false information. Therefore, it is alleged in the complaint that the accused persons in criminal conspiracy with each other cheated the complainant and his sons.

6. The Learned Judicial Magistrate after taking cognizance of the complaint against accused Sanjay Singh, Jayendra Singh and Rajendra Singh, Shyam Vajpai and Karan Singh (Respondents Nos. 2 and 3) under IPC and S.C.S.T Act, has issued summons through arrest warrants. Aggrieved by the order so passed, respondents nos. 2 and 3 had approached the High Court by filing a petition under Section 482 of the Code of Criminal Procedure.

7. It was argued before the High Court by the Learned Counsel for the respondents No. 2 & 3 that the allegations made by the complainant in the complaint filed, do not disclose a cognizable offence, justifying any investigation nor does it disclose any offence either under the provisions of I.P.C. or S.C.S.T Act and, therefore, the learned Magistrate was not correct in taking cognizance of the complaint filed against respondents nos. 2 and 3. Per Contra, it was argued by the learned counsel for the complainant that the learned Magistrate being prima facie convinced that the complaint filed and other materials produced does disclose cognizable offence against the accused persons, has taken cognizance of the complaint and has issued summons and, therefore, there is no error in the order passed by the learned Magistrate.

8. The High Court after referring to the contentions canvassed by learned counsel for the parties, by its cryptic order has observed, that, considering the facts and circumstances of the case pleaded by the parties, the impugned order passed by the learned Magistrate is an abuse of the process of the court, so far as it relates to taking cognizance against the petitioners (Respondents Nos. 2 and 3 herein) and, accordingly, has quashed the proceedings.

9. The issue involved in this case is, whether the High Court was justified in exercising its inherent power under Section 482, Cr.P.C. to set aside the proceedings taken against respondents nos. 2 and 3 by the learned Magistrate for the offences alleged both under the provisions of IPC and S.C.S.T. Act.

10. The Learned Counsel for the appellant would submit, that the allegations made in the complaint and the materials annexed, shows the involvement of the respondents herein, for forgery and criminal conspiracy and also committing atrocities on the appellant and his sons under Section 3(2)(5) of Atrocities Act. It is also contended that there is a prima facie case against the respondents and therefore, the High Court was not justified in exercising its inherent power under Section 482, Cr.P.C. and could not have quashed the proceedings pending before the Judicial Magistrate.

11. The question at this stage, is, not whether there was any truth in the allegations made, but the question is whether on the basis of the allegations, a cognizable offence or offences had been alleged to have been committed by the accused persons.

12. In the case of *Municipal Corpn. of Delhi v. Ram Kishan Rohtagi*¹, this Court has clearly laid down that taking the allegations and the complaint as these were, without adding or subtracting anything, if no offence was made out, then only the High Court would be justified in quashing the proceedings in exercise of its powers under Section 482 of the Code of Criminal Procedure.

13. In the case of *State of Haryana v. Bhajan Lal*², this Court has observed:

“We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the first information report or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

14. This view has also been reiterated by this Court in the case of *Rupan Deol Bajaj v. K. P. S. Gill*³. Also in the case of *State of Maharashtra v. Ishwar Piraji Kalpatri*⁴, this Court has taken the view that the court should not, except in extraordinary circumstances, exercise its jurisdiction under Section 482 CrPC so as to quash the prosecution proceedings after they have been launched.

15. In the present case it has to be borne in mind that learned Judicial Magistrate has taken cognizance of the complaint under the S.C.S.T. Act as well as under the Indian Penal Code.

16. The ground upon which the learned Judge seems to have quashed the order passed by the learned Magistrate against respondents nos. 2 and 3, is that the order so passed is an abuse of the process of the court. To arrive at this conclusion, the learned Judge has not even taken pains to look into the complaint and other materials produced before the learned Magistrate by the complainant.

17. Therefore, in our opinion, in the factual matrix of this case, the court should not have exercised its extraordinary power and inherent jurisdiction under Section 482 of the Code of

Criminal Procedure and quashed the proceedings initiated by learned Magistrate. Accordingly, we set aside the impugned order passed by the High Court. We now direct the learned Magistrate to complete the pending proceedings as expeditiously as possible and at any rate, within nine (9) months from the production of certified copy of this Court's order by either of the parties. We hasten to add, any observations made by us in the course of this order, is only for the purpose of disposal of this appeal and the observations made by us shall not be taken as an expression of any opinion on the merits of the case.

18. Accordingly, appeal is disposed of. No order as to costs.

¹(1983) 1 SCC 1

²1992 Supp (1) SCC 335

³(1995) 6 SCC 194

⁴(1996) 1 SCC 542