

SUPREME COURT OF INDIA

Devendra Prasad Singh

Vs.

State of Bihar

Crl.A.No.579 of 2019

(Abhay Manohar Sapre and Dinesh Maheshwari,JJ.,)

02.04.2019

JUDGMENT

Abhay Manohar Sapre,J.,

SLP(Crl.)No.21 of 2018

1. Leave granted.
2. This appeal is directed against the final judgment and order dated 09.08.2017 passed by the High Court of Judicature at Patna in Crl. M. No. 35751 of 2014 whereby the High Court allowed the application filed by respondent No.2 herein under Section 482 of the Criminal Procedure Code, 1973 (hereinafter referred to as “Cr.P.C.”) and quashed the order dated 21.01.2014 passed by the Judicial Magistrate 1st class, Patna in Complaint Case No. 1063 (c) of 2013 by which the Magistrate had taken cognizance of the complaint filed by the appellant herein against respondent No. 2 for commission of the offences punishable under Sections 323, 341, 379 and 504 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”).
3. A few relevant facts need mention hereinbelow for the disposal of this appeal, which involves a short point.
4. The question, which arises for consideration in this appeal, is whether the High Court was justified in quashing the complaint filed by the appellant (complainant) against respondent No. 2 holding that there was no prima facie case made out against respondent No. 2 for issuance of the process of the summons to him for commission of the offences punishable under Sections 323, 341, 379 and 504 IPC.
5. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its file for being proceeded with on merits in accordance with law.

6. In other words, we are of the view that the High Court was not justified in quashing the aforementioned complaint filed by the appellant herein against respondent No. 2. It should have been tried on merits in accordance with law.

7. The High Court quashed the complaint essentially on two grounds; First, no sanction under Section 197 of the Cr.P.C was obtained by the prosecution for filing the complaint against respondent No. 2 and the second, there are contradictions in the statement of the complainant and the witnesses.

8. In our view, both the grounds, which found favour with the High Court for quashing the complaint, are not well founded and hence legally unsustainable.

9. So far as the first ground is concerned, we have perused the complaint filed by the appellant against respondent No. 2. Having regard to the nature of the allegations made by the complainant against respondent No. 2, who was the Police Officer(SHO) at the relevant time, we are of the view that no prior sanction to prosecute respondent No. 2 under Section 197 of the Cr.P.C. was required for filing such complaint.

10. In other words, it cannot be contended that respondent No. 2 committed the alleged offences while acting in discharge of his official duties or while purporting to act in discharge of his official duties so as to attract the rigor of Section 197 of the Cr.P.C.

11. In our view, in order to attract the rigor of Section 197 of the Cr.P.C., it is necessary that the offence alleged against a Government Officer must have some nexus or/and relation with the discharge of his official duties as a Government Officer. In this case, we do not find it to be so.

12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

14. We, however, make it clear that we have not set out the facts of the case in detail and nor have recorded any finding on facts either way else it would have caused prejudice to the parties in the trial.

15. The Magistrate will proceed with the complaint and decide the same strictly in accordance with law on merits without being influenced by any observations made by the High Court in the impugned order and in this order.

