
(2008) 02 AHC CK 0017

Allahabad High Court

Case No: Criminal M.A. No. 1469 of 2008

A.K. Sinha and Another

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: Feb. 29, 2008

Acts Referred:

- Penal Code, 1860 (IPC) - Section 397, 406, 504, 506

Citation: (2008) 2 ACR 1176

Hon'ble Judges: Barkat Ali Zaidi, J

Bench: Single Bench

Advocate: G.S. Chaturvedi, Samit Gopal, Vivek Ratan and Ashutosh Agrawal, for the Appellant; A.K. Tripathi, A.K. Sinha, B.P. Tripathi, G.K. Gupta, N.P. Rai and A.G.A., for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Barkat Ali Zaidi, J.

It has been repeatedly observed by this Court as also by the Supreme Court in a number of cases that there is a growing tendency of dragging civil disputes into the criminal arena, with a view to procure, quick results, and to coerce the adversary into submissions.

2. We have an instance here before us.

3. Applicants (accused) run a heavy Engineering Goods Manufacturing Unit in Allahabad and O.P. No. 2 complainant is a contract labour supplier as well as of machines and other accessories.

4. He had been supplying labour to applicants and was also maintaining an office in their premises. Some differences arose between O.P. No. 2 and the applicants and the contention of O.P. No. 2 is that the applicants did not pay the labour charges as well the payments of machines and accessories supplied by O.P. No. 2 were also not

made, and also dismantled the office of O.P. No. 2 and removed all the things of the office.

5. With these allegations, the complainant filed a complaint (No. 6795 of 2006) before Chief Judicial Magistrate, Allahabad who summoned the applicants under Sections 406, 397, 504 and 506, I.P.C. by an order dated 9.4.2007.

6. The applicants have come to this Court with the contention that order of summoning is unwarranted, because the dispute is civil in character, and should not be entertained, by a criminal court.

7. I have heard Sri G. S. Chaturvedi, senior counsel, assisted by Sri Samit Gopal, advocate for the applicants, Sri A. K. Tripathi and Sri B. P. Tripathi, advocates for the complainant.

8. It is so apparent and obvious, that the dispute is of a civil nature, because labour charges were not paid, and the amount due to the complainant for the machines and accessories supplied were not paid and that is the reason, that the complaint has been filed.

9. Notice was given by O.P. No. 2 for demanding his dues for the labour charges, machines and accessories supplied, also reveals, that the real dispute between the parties is non-payment of charges to complainant, and for that, he should recourse to take action in the civil court.

10. The allegations about threats and abuses after O.P. No. 2 had protested after his office being ransacked, are clearly and manifestly introduced, with a view, to provide ground to provide jurisdiction to the criminal court. The gravamen of the dispute between the parties, is essentially non payment of amount to the complainant, and for that the remedy lies in the civil court.

11. It is thus clearly a case, which falls within the four walls of the civil court and it is unfortunate that the Trial Magistrate has not been able to discover the real intention of the complainant. Court should always be on the guard in such matters and should give a deeper and penetrative probe, when such issues come up, in order to discover, whether it is civil case in the garb of a criminal cover.

12. The impugned proceedings are consequently terminated.