(2008) 04 JH CK 0027

Jharkhand High Court

Case No: None

Radhika Raman Prasad Singh and Others		APPELLANT
	Vs	
State of Jharkhand and Another		RESPONDENT

Date of Decision: April 4, 2008

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 173
- Penal Code, 1860 (IPC) - Section 120B, 376, 386

Citation: (2008) 3 JCR 113

Hon'ble Judges: Amareshswar Sahay, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Amareshwar Sahay, J.
Heard the parties.

2. The prayer of the petitioners in this application is for quashing the entire criminal proceedings arising out of Sadar P.S. Case No. 381/1999 (G.R. No. 1711/1999) mainly on the ground that the CID who took up the investigation of the case submitted final report u/s 173,Cr PC finding the case to be maliciously false and, therefore, continuance of the prosecution in which the cognizance has been taken by the learned Magistrate under Sections 376, 386 and 120-B, IPC against the accused persons is an abuse of the process of the Court.

3. The relevant facts are that the respondent No. 2 Smt. Asha Singh lodged a first information report on 9.10.1999 against the accused persons namely, Anil Kumar (her brother-in-law), Kamini (her sister) and her father and mother for the alleged commission

of the offences under Sections 376, 386 and 120-B of the Indian Penal Code. The FIR was registered as Hazaribagh Sadar P.S. Case No. 381/1999 under Sections 376, 386 and 120-B, IPC.

4. The allegations in the FIR in short are that the petitioner No. 2 was married to her elder sister on 17th June, 1981. After her marriage her sister developed illicit relation with her Devar and once she was caught red handed by her husband, thereafter, informant''s brother-in-law used to say to his in-laws that he would leave his wife and, therefore, in order to maintain the happy family life of their elder daughter, the parents of informant in connivance with her elder sister created a situation for the petitioner No. 2 for committing rape upon their younger daughter (informant) and in the year 1985, the petitioner No. 2 committed rape upon the informant. After a few years the informant got married. It has further been alleged that on the basis of some photographs and letters, the accused persons used to black-mail her. Ultimately, in November, 1995 she narrated every thing to her husband and reported the entire matter by a confidential letter to the President, National Women Commission and to the President, National Human Right Commission.

5. The petitioner No. 1 is Sub-Inspector of Police in GRP at Chakradharpur. The investigation of the case was taken up and, thereafter, the charge sheet was submitted by the District Police on 9.2.2002 on the basis of which the cognizance was taken by the learned Magistrate on 11.2.2002. It appears that after the cognizance was taken by the Magistrate, the CID, Jharkhand Police took up the investigation of the said very case on the basis of an order dated 27.4.2002 passed by the Additional Director General, CID, Jharkhand Police. The said order of the Additional Director General dated 27.4.2002 was challenged by the informant before this Court in W.P. (Cr.) No. 252/2002. The said writ petition was dismissed by order dated 22.11.2002, holding that it was not a case for interference and the impugned order did not suffers from any illegality or infirmity and the law empowers the police to conduct further investigation in the case. It was also directed to the Director General of Police, Jharkhand in the said order to personally ensure that whichever agency is involved in further investigation or the entire investigation, the same must be completed within a period of three months.

6. It appears that the CID by its report dated 31.7.2003 (Annexure-3 to the writ application) submitted final report holding the allegations to be maliciously false.

7. Learned counsel appearing for the petitioner submitted that the said final report, submitted by the CID, has not been accepted by the learned Magistrate and, in fact, now the case has in fact been committed to the Court of Sessions.

8. It is argued on behalf of the petitioners that when the CID investigated the entire matter and submitted the final report finding the case to be maliciously false then in that situation continuance of the prosecution against the petitioners is absolutely an abuse of the process of the Court. He further submitted that the case has been filed only to harass and humiliate the petitioners with mala fide intention.

9. From the facts noticed above, it is clear that before the CID took up the investigation, the learned Magistrate had already taken cognizance for the offences under Sections 376, 386 and 120-B of the Indian Penal Code on the basis of the charge sheet submitted by the District Police and, therefore, even if subsequently, the CID submitted any final report finding the case to be maliciously false, it does not cut any ice and the order taking cognizance by the learned Magistrate cannot be said to be illegal or invalid in any manner. The submissions of the learned Counsel for the petitioners that the continuance of the criminal prosecution after submission of the final report by the CID would be an abuse of the process of the Court cannot be accepted and, hence, is rejected. What would be the value of the final report submitted by the CID has to be considered by the trial Court at an appropriate stage of the trial. There does not appear to be any illegality or irregularities in the matter and, as such, no interference is required by this Court.

10. As noticed above, since the case has already been committed to the Court of Sessions, the trial Court shall make all endeavors to expedite the trial and conclude the same as expeditiously as possible.

11. With these observations and directions, this application is dismissed.