(2012) 1 JCR 273

Jharkhand High Court

Case No: Criminal M.P. No. 351 of 2011

Pawan Kumar Pandey, Vishal Chandra Pandey @ Vishal Kr. Pandey and Vikash Chandra Pandey		APPELLANT
	Vs	
The State of Jharkhand and Shailigram Pandey		RESPONDENT

Date of Decision: June 30, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226
- Criminal Procedure Code, 1973 (CrPC) - Section 156(3), 482
- Dowry Prohibition Act, 1961 - Section 4
- Penal Code, 1860 (IPC) - Section 120B, 306, 384, 406, 420

Citation: (2012) 1 JCR 273

Hon'ble Judges: Dilip kumar sinha, J

Bench: Single Bench

Advocate: Chandrajit Mukherjee and A.K. Das, for the Appellant; D.K. Chakravarty, for he O.P. No. 2 and Azimuddin, Assistant Public Prosecutor for the State, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

D.K. Sinha, J.

The Petitioners have invoked the inherent jurisdiction of this Court for quashment of their entire criminal proceedings in connection with Dhanbad (Saraidhela) P.S. Case No. 07 of 2004 corresponding to G.R. No. 51 of 2004 arising out of C.P. Case No. 1582 of 2003 for the alleged offence under Sections 420/406/384/120B/306/511 of the Indian Penal Code and u/s 4 of the Dowry Prohibition Act.

2. The complainant-opposite party No. 2 herein had presented a complaint before the learned Chief Judicial Magistrate Dhanbad that he had negotiated the marriage of his daughter with the Petitioner No. 2 Vishal Chandra Pandey and during such negotiation the accused persons had raised demand of Rs. 4 lakhs in cash, gold ornaments weighing 20 bhars, freeze, colour T.V. and other household articles to which the complainant-opposite party No. 2 expressed his inability. However, demand was modified by the accused persons who proposed before the complainant to pay Rs. 2 lakhs to them by way of demand draft and the balance amount in cash with the condition that engagement shall be held at Lucknow. Ring ceremony/engagement was held on 10.8.2003. On the eve of which, valuable gifts were presented to them and as per demand the complainant paid Rs. 2 lakhs in cash but the accused persons insisted for payment of the balance amount. The complainant-opposite party No. 2 arranged another demand draft of balance amount on 22.9.2003. A "Chheka" was also organized at Lucknow on 5.10.2003 but subsequently the accused persons started avoiding in fixation of the date of marriage and for that they demanded an Indica Car and Rs. 2 lakhs in cash. When the complainant-opposite party No. 2 expressed his inability to meet out, he was humiliated and ultimately they refused marriage of the refusal his daughter went into depression and she expressed her desire that she did not want to survive more to which the complainant-O.P. No. 2 apprehended that his daughter may commit suicide. On such apprehension he filed a complaint case which was sent to the police under the order of the learned Chief Judicial Magistrate u/s 156(3) Code of Criminal Procedure for institution of the FIR and for investigating the case.

3. Preliminary defence of the Petitioners was that the entire occurrence as alleged took place within the territorial jurisdiction of Lucknow right from the engagement of the boy and girl up to ring ceremony and "Chheka" and that the marriage was also broken at Lucknow itself, as such, no part of alleged occurrence took place within the territorial jurisdiction of the CJM of Dhanbad, therefore, complainant filed before the CJM and cognizance taken thereon was barred by territorial jurisdiction.

4. A notice was served upon the O.P. No. 2 who appeared in this case and filed compromise petition on 19.5.2011 wherein it is stated that on account of certain misunderstanding being cropped up between the parties in the process of negotiation of marriage between the Petitioner No. 2 Vishala Chandra Pandey and the daughter of the O.P No. 2, the complaint was filed. It is further stated that as on the date, daughter of the complainant and the Petitioner No. 2 have already been married at different places and they were leading their conjugal life happily with their respective partners. The complainant had already made declaration before the Notary Public at Dhanbad and informed the Superintendent of police Dhanbad with the petition filed in the court of CJM explaining that the instant case was instituted due to some misunderstanding but subsequently good relation prevailed between the parties and now the complainant-opposite party No. 2 did not want to proceed any further in the present case instituted against the Petitioners. The disputes between the parties have been amicably

settled with the intervention of common friends and relatives and it would be expedient in the interest of justice that the instant criminal case be quashed. It was requested to this Court to accept the compromise petition filed on behalf of the parties and to quash the entire criminal proceeding in connection with Dhanbad(Saraidhela) P.S. Case No. 07/2004. Having gone through the contents of the compromise petition both parties signed in English on separate affidavits filed on their behalf.

5. Mr. Chandrajit Mukherjee, the Learned Counsel appearing on behalf of the Petitioners submitted that from plain reading of the complaint petition it would appear that no offence much less alleged u/s 384 or 306/511 of the Indian Penal Cod is attracted against the Petitioners. Similarly no offence u/s 4 of the Dowry Prohibition Act could be made out against them as the complainant failed to substantiate that money was extorted from him, however, parties have resolved their dispute and the complainant-opposite party No. 2 by filing joint compromise petition supported by his declaration made before the Notary Public admitted that on account of certain confusion marriage could not be performed and thereafter he married his daughter at different place and now he had no longer grievance against the Petitioners. As a matter of fact, he did not want to pursue the case as against the Petitioners.

6. Mr. D.K. Chakravorty, the Learned Counsel appearing for the O.P. No. 2 fairly conceded that parties have resolved their disputes which cropped up due to misunderstanding and the complainant-opposite party No. 2 has now no grievance against these Petitioners and therefore, compromise petition may be allowed. The Learned Counsel asserted that no offence u/s 384 Indian Penal Code could be made out against the Petitioners in the facts and circumstances and other offences were compoundable in nature. Similarly no offence under Sections 306/511 Indian Penal Code is made out against the Petitioner as his daughter Swata Pandey has not attempted to commit suicide on abetment. Mr. D.K. Chakravorty relied. on the decision reported in (2008) 7 S.C. 663. The Apex court in Manoj Sharma v. State propound by giving the following guidelines:

In our view, the High court''s refusal to exercise its jurisdiction under Article 226 of the Constitution for quashing the criminal proceedings cannot be supported The First. Information report, which had been lodged by the complainant indicates a disputes between the complainant and the accused which is of a private nature. It is no doubt true that the First Information Report was the basis of the investigation by the police authorities, but the dispute between the parties remained one of a personal nature. Once the complainant decided not to pursue the matter further, the High Court could have taken a more pragmatic view of the matter. We do not suggest that while exercising its power under Article 226 of the Constitution the High could not have refused to quash the First Information Report, but what we do say is that the matter could have been considered by the High Court with greater pragmatism in the facts of the case. As we have indicated hereinbefore, the exercise of power u/s 482 Code of Criminal Procedure or Article 226 of the Constitution is discretionary to be exercised in the facts of each case.

7. Having regard to the facts and circumstances of the case, arguments advanced on behalf of the parties considering the compromise petition filed on behalf of the Complainant-O.P. No. 2 and the Petitioner No. 2 Vishal Chandra Pandey @ Vishal Kr. Pandey supported by their separate affidavits on record and also relying upon the decision referred to herein before, the Criminal Proceedings of the Petitioners Pawan Kumar Pandey Vishal Chandra Pandey @ Vishal Kr. Pandey and Vikash Chandra Pandey in Dhanbad (Saraidhela) P.S. Case No. 07 of 2004 arising out of C.P. Case No. 1582 of 2003 is quashed and this petition is allowed.