

(2009) 10 JH CK 0033
Jharkhand High Court
Case No: None

Bhojhari Singh, Mandodari Devi
and Rita Kumari

APPELLANT

Vs

The State of Jharkhand and
Delho Murmu @ Hopo

RESPONDENT

Date of Decision: Oct. 6, 2009

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Dowry Prohibition Act, 1961 - Section 4
- Penal Code, 1860 (IPC) - Section 323, 376

Hon'ble Judges: Dilip kumar sinha, J

Bench: Single Bench

Judgement

D.K. Sinha, J.

Petitioners have invoked the inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure for quashment of the entire criminal proceeding as well as cognizance of the offence taken u/s 323 of the Indian Penal Code and u/s 4 of the Dowry Prohibition Act against the petitioners on 19.7.2004 in C.P. Case No. 399 of 2003. It would not be out of place to mention that separate cognizance of the offence u/s 376 of the Indian Penal Code has been taken against the co-accused- Bhola Nath Singh pending before the Sub Divisional Judicial Magistrate, Bokaro.

2. Prosecution story in short in the complaint presented before the Chief Judicial Magistrate, Bokaro as brought about by the complainant-Delho Murmu was that she used to live with her parents at Bokaro where her father was a permanent employee of Bokaro Steel Limited. The father of the principal accused Bhola Nath Singh @ Hemant namely Bhojhari Singh i.e. the petitioner No. 1 herein was also a permanent employee of Bokaro Steel Limited and for such reason, there was communication between both the families. In course of time, complainant-Delho Murmu and accused Bhola Nath Singh @ Hemant developed intimate relationship

and they started writing letters to each other. It was alleged that on inducement that he would marry her, the co-accused Bhola Nath Singh established physical relationship with the complainant, as a result of which she conceived and apprised the fact to Bhola Nath Singh who instead, tried to subterfuge the matter. She then informed her parents who pursuant to such information when contacted the petitioners i.e. the father, mother and sister of the principal accused Bhola Nath Singh @ Hemant respectively, they abused and refused to allow the marriage of the complainant with Bhola Nath Singh on the ground that they would get huge amount in dowry if Bhola Nath Singh would be married at different places whereas father of the complainant would be in a position to give only Rs. 50,000/-. Even Bhola Nath Singh also refused to marry her.

3. Counsel appearing for the petitioners submitted that admittedly petitioner No. 1 is the father, petitioner No. 2 is the mother and petitioner No. 3 is the unmarried sister of the Bhola Nath Singh @ Hemant who have nothing to do with the alleged affairs of Bhola Nath Singh with the complainant and that they have been falsely implicated on the ground that petitioner No. 1 Bhojhari Singh had filed a complaint before the Chief Judicial Magistrate, Bokaro against the complainant and her parents that they had abducted his son Bhola Nath Singh for the last one and half months who was lastly seen in the house of the father of the complainant and that he could not be located thereafter dead or alive. The learned Counsel submitted that the present case is the sequel of the earlier case and the complainant on the instance of her parents to shield them lodged the complaint against Bhola Nath Singh, his parents and sister. The learned Counsel asserted that though Bhola Nath Singh is traceless, but cognizance of the offence has been taken u/s 376 of the Indian Penal Code. The learned Counsel finally submitted that no offence whatsoever at all is made out against the petitioners Mandodari Devi and Rita Kumari much less alleged u/s 323 of the Indian Penal Code or u/s 4 of the Dowry Prohibition Act. The allegation was concocted against the petitioner No. 1 Bhojhari Singh that he refused the proposal of marriage by indirectly stating that he would get more than Rs. 50,000/- if he would marry his son at different place.

4. Heard the learned A.P.P.

5. I find from the facts and circumstances of the case that the allegation u/s 376 of the Indian Penal Code is not attracted against any of the petitioners herein. Similarly, Section 4 of the Dowry Prohibition Act and Section 323 of the Indian Penal Code are not attracted against the other two petitioners Mandodari Devi and Rita Kumari, therefore, cognizance of the offence as taken against them cannot be sustained and would amount to miscarriage of justice. As regards complicity of petitioner No. 1 Bhojhari Singh is concerned, it would be too early to observe as to whether offence u/s 323 of the Indian Penal Code and/or Section 4 of the Dowry Prohibition Act is attracted against him or not.

6. Taking the considered view, this criminal miscellaneous petition is" allowed in part as diseassed hereinbefore. Accordingly, criminal prosecution of the petitioners Mandodari Devi and Rita Kumari is quashed in C.P. Case No. 399 of 2003 pending before the Sub Divisional Judicial Magistrate, Bokaro but the same is dismissed against petitioner No. 1 Bhojhari Singh for the present but with the liberty to agitate at the appropriate stage.