Dayawant Kumar Jaiswal @ Dayawant Kumar and Bigan Prasad Bhagat @ Bigan Bhagat Vs The State of Jharkhand and Manju Kumari

Cr.M.P. No. 650 of 2008

Court: Jharkhand High Court

Date of Decision: May 6, 2011

Acts Referred:
Criminal Procedure Code, 1973 (CrPC) â€" Section 320(8), 482#Penal Code, 1860 (IPC) â€" Section 34, 406, 420

Citation: (2011) 7 RCR(Criminal) 437

Hon'ble Judges: Dilip kumar sinha, J

Bench: Single Bench

Final Decision: Allowed

Judgement

D.K. Sinha, J.
The Petitioners have invoked the inherent jurisdiction of this Court u/s 482 Code of Criminal Procedure for the quashment

of the order dated 06.08.2008 passed by the 1st Additional Sessions Judge, Bermo at Tenughat in Criminal Revision No. 36 of 2004 by which

the discharge petition of the Petitioners rejected by the Judicial Magistrate, Bermo at Tenughat in G.R. No. 966 of 2001, arising out of Kasmar

P.S. Case No. 56 of 2001 was affirmed and the Revision was dismissed, however, with the modification that a case was found prima facie under

Sections 406/34 of the Indian Penal Code against the Petitioner. When the matter was taken up, the Opposite Party No. 2 entered appearance by

executing Vakalatnama and a compromise petition was filed before this Court. In the meantime, I.A. No. 795 of 2011 was filed on behalf of the

informant-O.P. No. 2 Manju Kumari with the request that she may be permitted for the composition of the offence with the Petitioners as the

prima facie case found against the Petitioners was for the offence alleged u/s 420/34 of the Indian Penal Code and the same was compoundable

with the permission of the Court. It was further stated that the composition of the offence could be possible with the intervention of the well-

wishers of the parties and that she has already received a sum of Rs. 51,000/- (Fifty one thousand) from the Petitioners and therefore, she had no

longer grievance against any of them. By another I.A. No. 858 of 2011 which was filed on behalf of the Petitioners and the Opposite Party No. 2

depicted that the parties have already resolved the dispute outside the Court and a compromise has already been filed on 25.04.2011 which is on

the record. The informant-Opposite Party No. 2 has already received Rs. 51,000/- (Fifty one thousand) from the Petitioners and now she does

not want to proceed further against them and therefore, the compromise petition may be allowed and appropriate order may be passed.

2. Heared Mr. Atanu Banerjee, learned Counsel appearing on behalf of the Petitioners and Mr. Umesh Kumar Choubey under the instruction of

Mr. D.K. Jaiswal Counsel for the O.P. No. 2 and perused both the petitions. I.A. No. 650 of 2008 has been signed by the Petitioners as well as

by the O.P. No. 2 duly identified by the Advocates clerk of their respective Counsels. Separate petitions have also been filed on behalf of the

parties, which have been found to be proper.

3. Learned Counsel appearing on behalf of the O.P. No. 2 has submitted that the O.P. No. 2 Manju Kumari has already received Rs. 51,000/-

(Fifty one thousand) in cash and she has got no objection if the Petitioners are acquitted in terms of Section 320(8) of the Code of Criminal

Procedure.

4. Having regard to the facts and circumstances of the case, the compromise petitions as aforesaid are allowed for the'' composition of the dispute

between the parties. Accordingly, the Petitioners Dayawant Kumar Jaiswal @ Dayawant Kumar & Bigan Prasad Bhagat @ Bigan Bhagat are

acquitted in terms of Section 320(8) Code of Criminal Procedure from their proposed charge u/s 406/34 of the Indian Penal Code and thereby

their entire criminal proceeding is set aside.

5. This petition is allowed in the manner indicated above.