
(2012) 10 PAT CK 0097

Patna High Court

Case No: Criminal Miscellaneous No. 15135 of 2011

Chandra Bibhuti Prasad Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Oct. 19, 2012

Acts Referred:

- Cattle Trespass Act, 1871 - Section 24
- Criminal Procedure Code, 1973 (CrPC) - Section 319
- Penal Code, 1860 (IPC) - Section 147, 307, 323, 324, 34

Citation: (2013) 2 PLJR 45

Hon'ble Judges: Shivaji Pandey, J

Bench: Single Bench

Advocate: Ravi Kumar, Rajiv Ranjan Singh, Kumar Vikram and Ms. Priya Choubey, for the Appellant; Arun Kumar Pandey, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Shivaji Pandey, J.

Heard learned counsel for the petitioner and the State. In this case, petitioner is challenging the order dated 4th November, 2010 passed by Judicial Magistrate, 1st Class, Begusarai in Complaint Case No. 261C of 2001 filed u/ss. 147, 323, 380, 452, 427 IPC and 24 of the Cattle Trespass Act, 1871. However, the court below has added Sections 447 and 379 IPC in the charge and at the same time rejected the petition u/s 319 Cr.P.C., and a further prayer has been made for quashing the complaint case (Annexure-2).

2. From the record it appears that between the parties there was an altercation and assault which led to registration of Teghra P.S. Case No. 36 of 2001 where Chandra Bibhuti Prasad Singh is the informant for offences u/ss. 447, 323, 324, 307, 504, 379/34 IPC where Police has submitted charge-sheet. For the same incident, another complaint being Com. Case No. 261C of 2001 has been filed by Arun Prasad Singh,

complainant against Chandra Bibhuti Prasad Singh, petitioner of the present case, Jayant Kumar and others for the offences u/ss. 147, 323, 380, 452, 427 IPC and 24 of the Cattle Trespass Act, 1871.

3. According to the petitioner, he was brutally assaulted and was brought to the Police Station on a cot where he made his fardbeyan before the Police and on the next day, the present complaint was filed making malicious and false allegations.

4. Counsel for the petitioner accepts that four witnesses have already been examined in the complaint case as it also appears that an application u/s 319 Cr.P.C. was filed for addition of the accused persons and the court below has rejected the prayer. Basically the point raised by the counsel for the petitioner is that it is a false case and, as such, it is an abuse of the process of the court which is substantiated from the fact that the Police submitted charge-sheet which itself shows that the nature of the allegation is completely false and in that context, he has relied on [State of Haryana and others Vs. Ch. Bhajan Lal and others](#), and [B.S. Joshi and Others Vs. State of Haryana and Another](#), .

5. There is no quarrel on the proposition that in a case of malicious prosecution the court has power to interfere with proceeding and there is no dispute that if no offence is made out, in that circumstance also the court can interfere but at this stage when the petitioner did not file discharge petition and the court has already proceeded and four witnesses have been examined, it will not be in the interest of justice to quash the whole complaint petition when from the facts mentioned in the complaint petition it does not disclose that no case is made out against the petitioner. In that view of the matter, this Court does not find any merit in the present case. It is accordingly, dismissed.