

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 1725 of 2017

Birendra Oraon

... **Petitioner**

-Versus-

1. The State of Jharkhand

2. Vaibhav Vinit Tiwari

... **Opposite Parties**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Rakesh Kumar, Advocate

For the State : Mr. V.S. Sahay, A.P.P.

For O.P. No.2 : Mr. Vishal Kumar Tiwary, Advocate

08/24.07.2023 Heard Mr. Rakesh Kumar, learned counsel for the petitioner, Mr. V.S.

Sahay, learned counsel for the State and Mr. Vishal Kumar Tiwary, learned counsel for opposite party no.2.

2. This petition has been filed for quashing of the entire criminal proceeding in connection with Complaint Case No. C-94/2015 including the order dated 01.06.2016, pending in the court of the learned Chief Judicial Magistrate, Gumla.

3. Opposite party no.2 filed complaint case against the petitioner and other 4 to 5 unknown persons on 21.03.2015 alleging therein that on 16.03.2015, the petitioner alongwith 4 to 5 unknown persons allegedly came to his shop and demanded the due bill amounting Rs. 6,413/- upon which the opposite party no.2 requested the petitioner for some time and then the petitioner became allegedly irritated and started abusive languages against the opposite party no.2 and other family members and thereafter the brother of the opposite party no.2 allegedly paid Rs. 4,000/- to the petitioner and requested to rectify the Electricity Bill and further said that they would pay the rest amount after rectification in Electricity Bill, to which the petitioner refused and allegedly demanded Rs. 10,000/- as illegal and

allegedly threatened that if they would not pay the said amount, the Department would disconnect his Electricity connection and file a criminal case against them. It was further alleged that when the opposite party no.2 and his family members protested against the alleged abusive language and misbehavior, the petitioner caught the collar of the brother of the opposite party no.2 and allegedly snatched his gold chain worth Rs. 30,000/-. It was also alleged that when the opposite party no.2 tried to interfere in between them, the petitioner further allegedly abused and threatened him and then they returned back and thereafter it was alleged that they went to the local Police Station and file a case, but no action was taken by the local Police and then they filed the present case against the petitioner and unknown persons.

4. Mr. Rakesh Kumar, learned counsel for the petitioner submits that the petitioner happens to be a Junior Engineer of the Jharkhand Urja Vikas Nigam Limited (JUVNL). He submits that for using the electricity, illegally by opposite party no.2, the petitioner has lodged FIR being Gumla P.S. Case No.114/2015 on 16.03.2015. He further submits that just after filing of that case, the present complaint case has been filed against the petitioner on 21.03.2015 alleging therein that the petitioner has tried to snatch golden chain worth Rs.30,000/- from the shop of the complainant. He also submits that in the earlier case filed by the petitioner against opposite party no.2, the police has investigated the matter and submitted final form and, thereafter, the petitioner has filed protest petition and pursuant to that, the learned court has taken cognizance against opposite party no.2. He submits that maliciously the present case has been filed. On these grounds, he submits that entire criminal proceeding may kindly be quashed.

5. On the other hand, Mr. Vishal Kumar Tiwary, learned counsel for opposite party no.2 submits that there are allegations of demanding bribe and snatching golden chain worth Rs.30,000/- from the shop of the opposite party no.2 and, therefore, the complaint case has been filed against the petitioner. He submits that the learned court has applied judicial mind and, thereafter, taken cognizance against the petitioner. He further submits earlier case was lodged by the petitioner against grandfather of opposite party no.2 in which the police has exonerated by way of submitting final form. On these grounds, he submits that this Court may not interfere under Section 482 Cr.P.C.

6. Mr. V.S. Sahay, learned counsel for the State submits that the learned court has taken cognizance on the basis of complaint petition.

7. In view of the submission of the learned counsel for the parties, the Court has gone through the materials on the record including earlier FIR lodged by the petitioner as well as contents of the complaint petition and order taking cognizance. It is an admitted fact that the petitioner was employed as Junior Engineer in JUVNL and he along with others raided the premises of opposite party no.2 on 16.03.2015 and found that electricity theft was being done by opposite party no.2 and for that, he has registered the case on 16.03.2015. The said case was investigated by the police and since the FIR was lodged against grandfather of opposite party no.2 who left for heavenly abode much before lodging of the case, in view of that final form was submitted and the learned court on protest petition, has taken cognizance against opposite party no.2. Prima facie, it was incumbent upon the opposite party no.2 if his grandfather left for his heavenly abode, he was required to take steps for transfer of the said electricity connection

in his favour, but he has not done so and he was using the electricity. On the raid, the petitioner found using of electricity by way of theft and he has filed the FIR being Gumla P.S. Case No.114/2015. In the present case, the opposite party no.2 has filed the case alleging therein that golden chain worth Rs.30,000/- was snatched by the petitioner. The filing of earlier FIR by the petitioner has also been disclosed in the present complaint case. In view of that, it appears that maliciously, the present case has been filed as a counter blast of earlier FIR filed by the petitioner, in which opposite party no.2 is facing trial. Further, the Court finds that the said complaint case is also not on affidavit. To call a person by way of issuing summon, on examination of few witnesses is serious thing and reference may be made to the judgment passed in ***Priyanka Srivastava and another v. State of Uttar Pradesh and others; [(2015) 6 SCC 287]***.

8. In view of the above facts, reasons and analysis, so far as the petitioner is concerned, the entire criminal proceeding in connection with Complaint Case No. C-94/2015 including the order dated 01.06.2016, pending in the court of the learned Chief Judicial Magistrate, Gumla is quashed.

9. Accordingly, this petition is allowed and disposed of.

10. Interim order, if any granted by this Court, stands vacated.

(Sanjay Kumar Dwivedi, J.)