

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2247 of 2013

Somen Chatterjee

... **Petitioner**

-Versus-

1. The State of Jharkhand

2. Iliyash Bir Singh Tuti

... **Opposite Parties**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Rishi Pallava, Advocate

For the State : Mr. Achinto Sen, A.P.P.

For O.P. No.2 : Mr. Shekhar Prasad Sinha, Advocate

05/02.11.2023 Heard Mr. Rishi Pallava, learned counsel for the petitioner, Mr. Achinto Sen, learned counsel for the State and Mr. Shekhar Prasad Sinha, learned counsel for opposite party no.2.

2. This petition has been filed for quashing of the entire criminal proceedings including order taking cognizance dated 27.06.2013 passed in connection with C.P. Case No.2146/2012, pending in the Court of the learned S.D.J.M., Dhanbad.

3. Mr. Rishi Pallava, learned counsel for the petitioner submits that initially complainant has filed Complaint Petition No.645/2012 on 02.04.2012 against the petitioner and other co-accused, namely B.K. Sahu which was sent by the learned Court under Section 156(3) Cr.P.C. for registration of FIR and investigation and pursuant to that Baghmara P.S. Case No.116/2012 was registered on 05.05.2012 corresponding to G.R. No.1756/2012 for the offences under Section 341/342/406/506/119/120B of the Indian Penal Code and under Section 3/4/5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the petitioner and the co-accused. He further submits that the police has submitted final form on 30.06.2012 whereby the petitioner was not sent up for trial. He also submits

that on the protest petition, the learned Court has taken cognizance against the petitioner. By way of referring solemn affirmation, he submits that it is an admitted position that for not allotment of the quarter of his choice, opposite party no.2 has filed the complaint case falsely against the petitioner, who at that time was posted as General Manager of Barora Area of Bharat Coking Coal Limited. He submits that the entire case is based on that fact and the learned Court has taken cognizance against the petitioner on the protest petition.

4. Mr. Shekhar Prasad Sinha, learned counsel for opposite party no.2 submits that on the protest petition, the learned Court has rightly taken cognizance against the petitioner and there is no illegality in the said order.

5. Mr. Achinto Sen, learned counsel for the State submits that the police has submitted charge-sheet whereby the petitioner was not sent up for trial, however, the learned Court has taken cognizance on the protest petition.

6. In view of the above submissions of the learned counsel for the parties and looking into the solemn affirmation of the complainant, it is crystal clear that for a quarter which was allotted to his mother-in-law, an application was moved by the complainant for allotting the said quarter in his favour and somehow that quarter was not allotted to the complainant and, therefore, the present complaint case has been filed. The police has exonerated the petitioner after investigation, however, on the protest petition, the learned Court has taken cognizance against the petitioner.

7. To put a criminal law in motion by way of examining only one or two enquiry witnesses is deprecated, as has been held by the Hon'ble Supreme Court in the case of ***Pepsi Foods Ltd. and another v. Special Judicial Magistrate and others***, reported in ***[(1998) 5 SCC 749]***.

8. In view of the above facts, reasons and analysis, the entire criminal proceedings including order taking cognizance dated 27.06.2013 passed in connection with C.P. Case No.2146/2012, pending in the Court of the learned S.D.J.M., Dhanbad are quashed.
9. Accordingly, this petition is allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)

Ajay/