

Hari Nandan Singh vs The State Of Jharkhand on 11 February, 2025

2025 INSC 305

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. Of 2025
(Arising out of SLP (Crl.) No.452 of 2024)

HARI NANDAN SINGH

APPELLANT

VERSUS

STATE OF JHARKHAND

RESPONDENT

JUDGMENT

NAGARATHNA, J.

Leave granted.

2. Being aggrieved by the order dated 28.08.2023 passed in Criminal Misc. Petition No.1094/2023, by which the petition filed under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) with the prayers to quash the criminal proceedings including the order dated 06.07.2021 passed by Reason: 24.03.2022 passed by learned Judicial Magistrate, First Class, Bokaro was dismissed and the validity of the said orders were sustained by the High Court, the appellant is before this Court.

3. Briefly stated facts of the case are that a F.I.R. was registered at Bokaro Sector-IV P.S. Case No. 140 of 2020, based on a complaint by the informant, who was posted as an Urdu Translator and Acting Clerk (Right to Information) in the Sub-Divisional Office, Chas. The informant alleged that the appellant herein had sought certain information from the Additional Collector-cum-First Appellate Authority, Bokaro, and the said information was dispatched to him. However, the appellant subsequently filed an appeal before the Additional Collector-cum-First Appellate Authority, allegedly after manipulating the documents sent to him by the office through registered post and making false allegations of manipulation in the documents.

4. In light of the order passed by the Sub-Divisional Officer- cum-Public Information Officer, Chas, the Additional Collector- cum-First Appellate Authority directed the informant to personally serve the information to the appellant. Consequently, on 18.11.2020, at about 01:20 P.M., the informant,

accompanied by the messenger of the Sub- Divisional Office, Chas, visited the appellant's residence to hand over the information. The appellant initially refused to accept the documents but, upon insistence by the informant, eventually accepted them. However, he allegedly abused the informant by referring to his religion and used criminal force against him while he was discharging his official duties, with the intention of intimidating and deterring him from performing his duties as a public servant.

5. The informant subsequently reported the matter to the Sub-Divisional Officer, Chas, who, upon oral direction, instructed the lodging of the F.I.R., leading to the registration of Bokaro Sector-IV P.S. Case No. 140 of 2020 against the appellant. After completing the investigation, the police submitted a charge sheet against the appellant for offences punishable under Sections 298, 504, 506, 353, and 323 of the Indian Penal Code (for short, "IPC").

6. Upon examining the materials collected during the investigation, by order dated 08.07.2021, the learned Magistrate took cognisance of the said offences and summoned the appellant.

7. Being aggrieved, the appellant filed an application for discharge under Section 239 Cr.P.C. By order dated 24.03.2022, the learned Magistrate held that there was sufficient material available on record for framing charges against the appellant under Sections 353, 298, and 504 of the IPC. However, the learned Magistrate further held that there was lack of evidence for the offences punishable under Sections 323 and 406 IPC.

8. Being aggrieved, the appellant preferred criminal revision petition before the Additional Sessions Judge-1, Bokaro and the same was dismissed by order dated 20.02.2023. Thereafter, the appellant approached the High Court by filing Cr. M.P No. 1094 of 2023 seeking to quash the entire criminal proceedings against the appellant including the orders dated 08.07.2021, 24.03.2022 and 20.02.2023. By impugned order dated 28.08.2023, the High Court dismissed the criminal miscellaneous petition filed by the appellant. Hence this instant appeal.

9. For ease of reference, the relevant portions of the complaint could be extracted as under;

"5. That in view of compliance of the above order of the Sub-Divisional Officer- cum-Public Information Officer, Chas, to make the information material available personally again, I went on dated 18.11.2020, afternoon 01.20 O'clock along with Office Peon Sh. Munna Singh for compliance at the residence of Sh. Harinandan Singh, House No.2362, Sector-4/D. On pressing call bell at his residence, Sh. Harinandan Singh started refusing to take information material from inside the gate itself. On again and again requesting by me, he received the information material. In order of receiving information material, Sh. Harinandan Singh hurt my religious sentiments from inside the gate itself. Even he called me Miyan-Tiyan along with Pakistani. He fully tried to create dispute with me. This act done by me has also been recorded by the peon gone along with me. I have given this information to Sub-Divisional Officer, Chas also at which the Sub-divisional Officer has given oral orders to register FIR against the incidents happened with me.

6. That Sh. Harinandan Singh created hindrance in the compliance/execution of the letters concerned with government work due to which I am mentally disturbed. This is adversely affecting on my work.”

10. Learned Judicial Magistrate, First Class, Bokaro initiated proceedings on the said FIR and consequently, issued summons to the appellant herein. Being aggrieved, an application for discharge was filed by the appellant herein in the form of a counter affidavit-cum-written statement. By order dated 24.03.2022, the learned Judicial Magistrate, First Class, Bokaro dismissed the said application by not being inclined to discharge of the appellant herein and instead continued the proceedings. The said order was assailed in Criminal Misc. Petition No. 1094/2023 before the High Court, the High Court has sustained the aforesaid order and has dismissed the Criminal Miscellaneous Petition. Hence this appeal.

11. We have heard learned senior counsel for the appellant and learned standing counsel for the respondent-State of Jharkhand and perused the material on record.

12. During the course of submissions, learned senior counsel for the appellant drew our attention to Sections 353, 298 and 504 of the IPC and contended that if the ingredients of these offences are juxtaposed with the relevant portions of the complaint extracted above, it is easily discernible that no offence whatsoever has been made out under the aforesaid Sections. Further the charge under Section 353 does not arise at all as against the appellant and the offences under Sections 298, 504 of the IPC are not compoundable offences. He therefore, submitted that the learned Judicial Magistrate, First Class, Bokaro ought to have allowed the application seeking discharge and closed the proceedings against the appellant herein.

13. Learned senior counsel further submitted that the High Court was also not right in sustaining the order dated 06.07.2021 of the Chief Judicial Magistrate, Bokaro and thereby dismissing the Criminal Misc. Petition. Learned senior counsel submitted that the impugned orders may be set aside and the application filed by the appellant herein may be allowed.

14. Learned senior counsel for the appellant further submitted that the appellant is presently aged about 80 years and at this stage of his life, he has been forced to face this criminal proceeding.

15. Per contra, learned standing counsel for the respondent- State with reference to his counter affidavit contended that there is no merit in this appeal; that the counter affidavit has in detail narrated as to how the offences have been rightly alleged against the appellant herein. Learned senior counsel submitted that the impugned order would not call for any interference in this appeal.

16. We have considered the arguments advanced at the bar. For the sake of immediate reference, we extract Sections 353, 298 and 504 of the IPC as under:

“Section 353: Assault or criminal force to deter public servant from discharge of his duty:

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 298: Uttering words, etc., with deliberate intent to wound religious feelings.

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 504 Intentional insult with intent to provoke breach of the peace.

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

17. Before considering the claim of the parties, it is useful to refer to Sections 227 and 228 CrPC which are reproduced below:

“227. Discharge.—If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of charge.—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the First Class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the First Class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant cases instituted on a police report;

(b) is exclusively triable by the court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused, and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.” From the above, it is clear that the Judge must examine all case records, review the submitted documents, and hear the arguments from both the accused and the prosecution. If the Judge finds that there is “not sufficient ground” to proceed against the accused, they must discharge the accused while providing reasons for the decision. However, if after such examination and hearing, the Judge believes that there is “ground for presuming” that the accused has committed an offence, they may proceed by framing charges in writing and directing the accused to stand trial as per the prescribed procedure.

This Court in *Sajjan Kumar v. CBI*, (2010) 9 SCC 368 has on consideration of the various decisions about the scope of Sections 227 of the Code, laid down the following principle “21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

18. Applying the aforesaid judgment to the present case in light of what has been extracted above as the relevant portion of the First Information Report in light of the offence alleged as against the appellant herein, we do not find that any ingredients of the offences alleged as against the appellant herein find place in FIR registered as against him.

19. A bare perusal of Case No. 140 of 2020 reveals that the essential ingredients of the offences alleged against the appellant under Sections 353, 298, and 504 IPC are not made out. Evidently, there was no assault or use of force by the appellant to attract Section 353 IPC. Therefore, the High Court ought to have discharged the appellant under Section 353 IPC.

Further, the appellant is accused of hurting the religious feelings of the informant by calling him “Miyani-Tiyan” and “Pakistani.” Undoubtedly, the statements made are poor taste. However, it does not amount to hurting the religious sentiments of the informant. Hence, we are of the opinion that the appellant shall also be discharged under Section 298 IPC. Additionally, we find that the appellant cannot be charged under Section 504 IPC, as there was no act on his part that could have provoked a breach of peace and accordingly, deserves to be discharged under Section 504 IPC as well.

20. In the circumstances, we set aside the order of the High Court which has sustained the order of the Trial Court and consequently, allow the application filed by the appellant herein and discharge the appellant from all the three offences alleged against him.

21. The appeal is allowed in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

.....,J.

(B.V. NAGARATHNA)J.

(SATISH CHANDRA SHARMA) NEW DELHI;

FEBRUARY 11, 2025