

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4512 of 2019

Arising Out of PS. Case No.-533 Year-2014 Thana- KADAMKUAN District- Patna

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1. Bashishtha Kumar @ Bashishtha Kumar Singh S/O Krishna Nand Singh Resident Of Village/ Mohalla- Lali Bhawan, Nehru Nagar, P.S.- Patliputra, Distt- Patna, Present Address- Itanagar, P.S.- Sikendra, Distt- Jammui
 2. Manoj Kumar Chandel S/O Krishna Nand Singh Resident Of Village/ Mohalla- Lali Bhawan, Nehru Nagar, P.S.- Patliputra, District- Patna, Present Address- Itanagar, P.S.- Sikendra, District- Jammui

... .. Appellant/s

Versus

1. The State Of Bihar Through Its Secretary, Deptt. Of Home, Secretariat, Patna Bihar Bihar
2. Mahendra Ram Resident Of Permanpur, Post- Amahala, P.S.- Dawath, District- Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dhaneshwar Prasad Gupta
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

12 11-11-2024 Heard the learned counsel for the appellants, learned Special PP for the State and the learned counsel for the respondent no. 02.

2. This appeal has been filed against the order dated 14.12.2017/15.12.2017 passed by the learned A.C.J.M-VII-cum-Special Judge, SC/ST, Patna in Special Case No. 17/18 arising out of Kadamkua P.S. Case No. 533 of 2014 by which the cognizance of the offences under Sections 420, 406/34 of the Indian Penal Code and Section 3 (viii)(x) of the SC/ST Act has been taken against the appellants.



3. The brief facts of the case is that on 26.07.2007, the informant had formed an unlawful assembly and trespassed at the mining IDIO Company at Mauza-Bishnapur (JalwaPahar) Munger with an object of driving away the workers and office bearers of the company and to capture the mining site and, thereafter, Sub-Inspector of Police in course of patrolling apprehended seven persons including the informant and on his self-statement, Suryagarha (Piri Bazaar) P.S. Case No. 188/2007 against the informant and eight others accused under Section 146, 148, 149, 448, 341, 323 and 504 of IPC and Section 25(1) (a), Section 26/35 of the Arms Act, 1959 has been instituted.

4. It has been submitted by the learned counsel for the appellants that in the year 2013, Tirumala Infrabuild Pvt. Ltd. filed Company Petition No. 145/KB/2013 before National Company Law Tribunal, Kolkata Bench, Kolkata against IDIO Construction and Industries (India) Ltd. and the appellants on same allegations. He further submits that on 05.12.2014, the informant again attempted to disturb the mining at the site of the company and went there by forming an unlawful assembly and demanded ransom from the working staff and thereafter, Assistant Manager at the site of the company instituted FIR being Piri Bazaar P.S. Case No. 62/2012 under Section 384/34



of the Penal Code.

5. Learned counsel for the appellants next submitted that in the year 2015, the informant again attempted to destabilize the company, held a fake meeting in connivance with retrenched employee and open a fake office at Jagat Trade Centre and also printed the money receipt, letter pad envelopes etc. in the name of company with an object to capture the company and the informant is one of them and chartered account Sanjay Kumar Jha became instrumental in such act. Binod Kumar Tiwari is also one of the associate and accordingly appellants instituted complaint case. He further submits that on 01.07.2016, Learned Sessions Judge Patna has passed an order in Criminal Revision No. 410 of 2015 filed by the co-accused and set aside the order of issuance of Non-Bailable Warrant of arrest in the criminal case issued against the co-accused.

6. Learned counsel for the appellants next submitted that on 31.07.2017 after approximately a period of three years, the Police filed charge sheet no. 314/17 against this appellants and others under Section 420/406/34 of IPC and Section 3(1)(P) (r) of SC/ST (Prevention of Atrocities) Act, 1989. On 07.06.2018 National Company Law Tribunal, Kolkata Bench, Kolkata dismissed the Company Petition No. 145/KB/2013 filed



by Tirumala Infrabuild Pvt. Ltd. by detailed order while dealing with the charges levelled against IDIO Construction and Industries (India) Ltd. and the appellants herein.

7. Learned counsel for the appellants next submitted that the cognizance order should be quashed because of the dispute between the informant and the appellants for which company petition was filed. He further submits that the appellant no. 02 and 03 are not named in the F.I.R., therefore, the order taking cognizance is bad in law and the same is fit to be quashed.

8. The basic submission of the learned counsel for the appellant is that there is a dispute between the parties for the ownership of the company therefore, the criminal case should be quashed.

9. The learned counsel for the O.P. No. 02 and the Special PP for the State has vehemently opposed the prayer of the appellants and have submitted that from the materials available on record and from reading of the F.I.R., prima-facie offences are made out against the appellants. The police has conducted the investigation and thereafter has submitted the charge-sheet.

10. This Court cannot hold a mini trial at the stage of



cognizance. Whether the case is made out or not is to be examined by the Special Judge at the stage of framing of charge by examining the materials available on record.

11. In these circumstances, this appeal is dismissed with liberty to the appellants to raise all the grounds at the stage of framing of charge and if such an application is filed, the same shall be considered and decided by the Special Judge in light of the judgment of the Hon'ble Supreme Court passed in the case of *Kanchan Kumar V/s State of Bihar; (2022) 9 SCC 577*.

12. This appeal stands dismissed with the aforesaid liberty to the appellants.

(Sandeep Kumar, J)

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