

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 628 OF 2009

VIJAY KISHORE PRASAD SINGH & ANR. ... APPELLANT(S)

VERSUS

STATE OF BIHAR & ANR. ...RESPONDENT(S)

O R D E R

This appeal arises out of the judgment and order dated 31.01.2008 passed by the High Court of Judicature at Patna in Criminal Misc. No. 45226 of 2006 whereby the High Court dismissed the applicants' petition filed by the appellants herein declining to quash the F.I.R. for the alleged occurrence of offence on 30.11.2005 at 5:30 p.m. An F.I.R. was registered against the appellants under Sections 323, 341 and 379 read with Section 34 of the Indian Penal Code ("IPC" for short). It is stated that the offences alleged under Sections 323, 341 and 379 IPC are exclusively triable by the Court of Gram Panchayat/Katchahry under Section 103 of the Bihar Panchayet Raj Act, 1993 and that a Judicial Magistrate has no jurisdiction to take cognizance of the offences which are specifically barred under Section 110 of the Bihar Panchayat Raj

Act. The appellants herein have filed a petition before the High Court under Section 482 CrPC praying to quash the order passed by the Chief Judicial Magistrate, Nalanda, taking cognizance under Sections 341 and 323 IPC. The High Court dismissed the petition and declined to quash the F.I.R. *inter alia* observing that on the charges levelled against the appellants, *prima facie* case is made out under Section 392 IPC which is triable only by the Court of Judicial Magistrate. Being aggrieved, the appellants have filed this appeal.

We have heard learned counsel appearing for the parties and perused the material placed on record.

Learned counsel for the appellants has drawn our attention to the contents of the F.I.R. and submits that as per the averments made under the F.I.R., no offence under Section 323 and 392 IPC is made out and doing so the High Court was not right in holding that the offence under Section 392 IPC is made out. He, therefore, prayed for allowing of the appeal.

On a perusal of the F.I.R. it is seen that the allegation of the complainant is that the complainant has refused to give the appellants rangdari and on refusal the appellants took away Rs.500/- from the

pocket of the complainant's shirt and the appellants are also alleged to remove a watch from his left wrist and then the appellants are alleged to point a pistol towards the chest of the complainant and threatened to shoot him. Without expressing any opinion on the merits of the matter, we are of the view that the matter is elaborately considered by the High Court. As alleged in the complaint, a prima facie case is made out under Section 392 IPC, which has rightly been observed by the High Court that offence under Section 392 IPC is triable by the Judicial Magistrate. We do not find any ground for our interference.

In view of the above, this appeal is dismissed. Since the occurrence is of the year 2005, the Chief Judicial Magistrate is directed to expedite the trial and dispose of the same in accordance with law as expeditiously as possible.

We make it clear that we have not expressed any opinion on the merits of the case.

.....J.
(V. GOPALA GOWDA)

.....J.
(R. BANUMATHI)

NEW DELHI,
FEBRUARY 10, 2015

ITEM NO.2

COURT NO.10

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 628/2009

VIJAY KISHORE PRASAD SINGH & ANR.

Appellant(s)

VERSUS

STATE OF BIHAR & ANR.

Respondent(s)

(with office report)

Date : 10/02/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Ranjan Kumar, Adv.
 Mr. Sanjay Kumar, Adv.

For Respondent(s) Mr. Gopal Singh, Adv.
 Ms. Prerna Singh, Adv.
 Ms. Rashmi Srivastava, Adv.

RR-2 Mr. Mohit Kumar Shah, Adv.
 Mr. Navin Prakash, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

The appeal is dismissed in terms of the signed order.

(S. K. RAKHEJA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)