

(2010) 11 PAT CK 0067

In the Patna High Court

Case No : Criminal Miscellaneous No. 14282 of 2002

Amresh Kumar Mishra @ Amresh Mishra

APPELLANT

Vs

The State of Bihar and Nasir Alam

RESPONDENT

Date of Decision : 02-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 406, 420, 468

Citation : (2010) 11 PAT CK 0067

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rakesh Kumar, J.—The sole Petitioner, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, has prayed for quashing of an order dated 4.2.2002 passed by Sri Ajay Nath Jha, Judicial Magistrate, 1st Class, Katihar in C.A. No. 1704 of 2001, T.R. No. 1418 of 2002. By the said order, learned Magistrate has taken cognizance of offences under Sections 406, 468, 420 and 120B of the Indian Penal Code and directed for summoning the accused persons, including the Petitioner.

2. Short fact of the case is that Opp. Party No. 2 filed a complaint case in the court of learned Chief Judicial Magistrate disclosing therein that he had purchased distribution, exhibition and exploitation rights of the film "Aadmi Khilona Hai" from accused No. 3, who was the proprietor of M/S Ganga Kaberi Films, Katihar for exploiting the said right for the area in question. It was alleged that subsequently, the complainant deposited the amount with accused No. 3 and registration Certificate was also issued in favour of the Petitioner. However, at subsequent stage, it was alleged that the Petitioner, who was proprietor of M/S V.M. International (Film Distributor) filed an objection after expiry of the period of limitation. Subsequently, the complainant suffered huge loss and on that allegation complaint was filed. After conducting enquiry, the learned Magistrate

has taken cognizance of offences by the impugned order.

3. Sri Pankaj Kumar Sinha, learned Counsel for the Petitioner, while pressing the present petition, has argued that on perusal of the complaint petition, no offence is made out against the Petitioner.

4. Sri Ajay Kumar Thakur, learned Counsel appearing on behalf of Opp. Party No. 2 has opposed the prayer of the Petitioner. I have also heard Smt. Indu Bala Pandey, learned Addl. Public Prosecutor appearing on behalf of the State.

5. Besides hearing learned Counsel for the parties, I have perused the contents of the complaint petition and the impugned order. On perusal of the complaint petition, the Court is satisfied that no offence as alleged by the complainant against the Petitioner is made out. It appears that in a mechanical manner, learned Magistrate has taken cognizance of offences, which requires to be interfered with.

6. Accordingly, the order of cognizance dated 4.2.2002 passed by Sri Ajay Nath Jha, Judicial Magistrate, 1st Class, Katihar in C.A. No. 1704 of 2001, T.R. No. 1418 of 2002, so far as Petitioner is concerned, is hereby set aside and the petition stands allowed.