

(2010) 07 PAT CK 0113

In the Patna High Court

Case No : Criminal Miscellaneous No. 14734 of 2000

Arun Kumar

APPELLANT

Vs

The State of Bihar and Dwarika Tiwari

RESPONDENT

Date of Decision : 16-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 420

Citation : (2010) 07 PAT CK 0113

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 9.3.1999 passed by the Chief Judicial Magistrate, Siwan in Complaint Case No. 773 of 1997. By the said order, the learned Magistrate has taken cognizance of offence u/s 420 of the Indian Penal Code.

2. At the very outset, while the case was taken up, it was submitted by learned Counsel for the petitioner that during pendency of the present petition, a compromise, in between the complainant and petitioner, had already arrived and thereafter a petition was filed before the court below to this effect. However, the learned Magistrate, keeping in view the fact that criminal proceeding in Complaint Case No. 773 of 1997 was stayed by this Court vide order dated 26.7.2001, it was not appropriate to pass any order and as such the learned Magistrate has passed no order on the compromise petition. Learned Counsel for the petitioner has also produced a photo copy of the order of the learned Magistrate passed on 2.7.2003. Keep it on record.

3. The matter relates to a dispute in hire purchase. Since both the parties had already agreed not to proceed with the complaint case and to this effect, compromise petition has already been filed, there is no reason to allow the

criminal proceeding in Complaint Case No. 773 of 1997 to further proceed. Offence u/s 420 of the I.P.C., under which the learned court has taken cognizance, is a compoundable offence. However, permission of court is required to be obtained under the provisions contained in Section 320 of the Code of Criminal Procedure.

4. For the ends of justice, in view of the filing of the compromise petition, it is necessary to pass an order so that dispute in between the parties, may come to an end.

5. Accordingly, the order of cognizance dated 9.3.1999 passed by the Chief Judicial Magistrate, Siwan in Complaint Case No. 773 of 1997 is hereby set aside and petition stands allowed.