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**(2010) 07 PAT CK 0036**  
**In the Patna High Court**

Ashif Jamal Siddique

APPELLANT

Vs

State of Bihar and Amitabh Kumar, Manager Trikon Mutual  
Benefit Limited

RESPONDENT

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**Date of Decision :** 07-07-2010

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 482  
Penal Code, 1860 (IPC) — Section 120B, 406, 409, 417, 418

**Citation :** (2010) 07 PAT CK 0036

**Hon'ble Judges :** Rakesh Kumar, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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**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 the order dated 3.2.1999 passed by Sri H.N. Shukla, Judicial Magistrate, Ist Class, Sitamarhi in T.R. No. 44 of 1999 arising out of Complaint Case No. 960 of 1998. By the said order, the learned Magistrate has taken cognizance for the offences under Sections 406, 409, 417, 418, 420, 467 and 468 read with Section 120B of the Indian Penal Code.

2. Short fact of the case is that opposite party no.2 filed a complaint petition vide Complaint Case No.960 of 1998 disclosing therein that he was an unemployed person and the officials of an organization, namely, Trikon Corporation Limited, Lucknow, persuaded him to be appointed in the Corporation and thereafter, the complainant was persuaded to collect fund which was to be refunded to the depositors after its maturity. Virtually, the Corporation in question was a private financial company. The complainant alleged that after collecting the deposit from several depositors maturity amount were never paid to the depositors. Subsequently, officials/Director of the Corporation disappeared and, thereafter, the present complaint petition was filed for the offences under Sections 406, 409, 417, 418, 420, 467 and 468 read with Section 120B of the Indian Penal

Code. After filing of the complaint petition, the complainant was examined and in support of the complaint petition, six witnesses were examined as enquiry witnesses and several documents were also produced. Learned Magistrate after perusing the materials on record and discussing the allegation/contents of the complaint petition in detail, by order dated 3.2.1999 took cognizance of the offences under Sections 406, 409, 417, 418, 420, 467 and 468 read with Section 120B of the Indian Penal Code.

3. Aggrieved with the order of cognizance, the petitioner approached this Court by way of filing the present petition. This petition was admitted on 13.3.2000 and while admitting the case, this Court directed that pending disposal, further proceeding in Complaint Case No. 960 of 1998 (T.R. Case No. 44 of 1999) pending in the court of Sri H.N. Shukla, Judicial Magistrate, Ist Class, Sitamarhi, shall remain stayed and stay order is still operative.

4. Learned Counsel appearing on behalf of the petitioner, while pressing the present petition, has argued that the order of cognizance is liable to be quashed on the ground that the entire complaint petition does not disclose commission of any offence. It was further argued that even this petitioner had made deposit in Trikone Corporation and his amount was also not refunded by the Corporation. It was further argued that the complainant, who had filed the complaint petition was an employee of the Corporation and he had himself collected several deposits from the depositors and, as such, he was not authorized to file the present complaint petition. On the aforesaid grounds, learned Counsel for the petitioner has prayed to quash the order of cognizance.

5. Mrs. Indu Bala Pandey, learned Additional Public Prosecutor, appears on behalf of the State. She has opposed the prayer of the petitioner. It was further submitted by her that though the order of cognizance is a long order, from the contents of the impugned order, it is evident that the learned Magistrate has examined the entire materials including evidence brought during enquiry and after being satisfied that prima facie case was made out, has passed the impugned order. According to her, there is no error in the impugned order.

6. Besides hearing learned Counsel for the parties, I have also perused the impugned order and the materials available on record. On perusal the impugned order this Court is of the opinion that the learned Magistrate, while passing the impugned order, has committed no error. Moreover, at the stage of cognizance, in ordinary course, it is not required to interfere and that too, while exercising power u/s 482 of the Code of Criminal Procedure which is to be exercised in exceptional cases. The petitioner has not made out an exceptional case warranting exercise of inherent power in his favour. Accordingly, this Court is not inclined to interfere with the impugned order and the petition stands rejected.

7. Keeping in view the fact that the order of cognizance which is under challenge was passed long back in the year 1999, it is desirable to direct the court below to proceed expeditiously.

8. In view of rejection of the present petition interim order of stay dated 13.3.2000 stands automatically vacated.
9. With the above observations and directions, the petition stands rejected.