
(2010) 11 PAT CK 0041

In the Patna High Court

Case No : Criminal Miscellaneous No. 10751 of 2005

Chandrabhushan Prasad Sharma

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 420, 467

Citation : (2011) 1 PLJR 935

Hon'ble Judges : Akhilesh Chandra, J

Bench : Single Bench

Judgement

Akhilesh Chandra, J.—Heard learned Counsel for the Petitioner and learned Additional Public Prosecutor for the State. None appeared on behalf of the opposite party No. 2 in spite of earlier appearance by filing Vakalatnama and display of name of learned Counsel in the daily list.

2. This is an application u/s 482 of the Code of Criminal Procedure seeking quashing of order dated 9.1.2004 passed in Trial No. 455 of 2004 arising out of Complaint Case No. 1050 of 2002 by Judicial Magistrate, 1st Class, Gaya taking cognizance against the Petitioner for the offence under Sections 420, 406 & 467 of the Indian Penal Code.

3. Undisputedly, there was some business transaction between the Petitioner and the opposite party No. 2. There was one cheque for Rs. 2,11,000/- issued by the complainant in favour of the Petitioner with respect to the same inclusive of other transactions. There were earlier correspondences between the parties by way of legal notice and reply as mentioned in the complaint petition itself.

4. The Petitioner on getting the cheque aforesaid bounced filed Complaint Case No. 878(C) of 1999 before the Chief Judicial Magistrate, Nalanda at Biharsharif and subsequently also filed Money Suit No. 8 of 2002 in the Court of Sub-Judge, 1st, Nalanda at Biharsharif. Knowing fully well filing of complaint and suit, the opposite party No. 2 appears filing the instant complaint petition taking some

plea behind issuance of cheque which according to him was to be returned without being encashed.

5. The reason behind filing of the instant complaint petition, in face of different undisputed correspondences between the parties and pendency of civil suit besides complaint petition since much before as appears just by way of pressure tactics to be adopted against the Petitioner, who had already got initiated civil and criminal proceeding against opposite party No. 2 roughly three years before filing the present complaint and opposite party No. 2 had every knowledge.

6. The allegation levelled in the complaint petition also indicates that it is altogether a civil dispute relating to accounting and no criminal offence appears making out.

7. In view of the above, if the further proceeding before the court below (impugned) is permitted to continue, further it shall be nothing but abuse of process of law and sheer wastage of the precious judicial time, accordingly quashed without affecting the right of the opposite party No. 2 to defend claim of the Petitioner in Money Suit No. 8 of 2002 as well as in" Complaint Case No. 878(C) of 1999 initiated earlier.