
(2010) 07 PAT CK 0164
In the Patna High Court

Chandrika Prasad Singh

APPELLANT

Vs

The State of Bihar and Ram Bilash Singh

RESPONDENT

Date of Decision : 22-07-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 420, 465

Citation : (2010) 07 PAT CK 0164

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 23.7.1998 passed by Judicial Magistrate, Ist Class, Gopalganj in Complaint Case No. C 509 of 1998, Tr. No. 589 of 1999, Tr. No. 412 of 2000. By the said order, the learned Magistrate has taken cognizance of offence under Sections 420 and 465 of the Indian Penal Code.

2. Short fact of the case is that the opposite party No. 2 filed a complaint vide Complaint Case No. C 509 of 1998 in the court of Chief Judicial Magistrate, Gopalganj alleging therein that Rabindra Singh and Satendra Singh, who were arrayed as Accused Nos.1 and 2 in the complaint petition, had executed a sale deed in favour of the petitioner in respect of the land of complainant. The petitioner was made Accused No. 3 in the complaint petition and two persons, who had witnessed the sale deed, were made Accused Nos.4 and 5 in the complaint case. After conducting enquiry, the learned Magistrate, by the impugned order, took cognizance of the offences under Sections 420 and 465 of the Indian Penal Code.

3. Aggrieved with the order of cognizance, the petitioner approached this Court by filing the present petition. On 24.4.2001, while issuing notice to opposite party No. 2, this Court directed that till further order is passed in the admission

matter, further proceeding in the court below in Complaint case No. C 509 of 1998 in respect of the petitioner only shall remain stayed. Subsequently, on 1.11.2001, this petition was admitted for hearing and it was directed that interim order passed on 24.4.2001 shall remain operative during the pendency of this application.

4. In this case, during the course of hearing, on 13.7.2001, learned Counsel appearing on behalf of opposite party No. 2 sought adjournment for a week, which was allowed. However, today, when the case was called out, none has appeared on behalf of opposite party No. 2.

5. Learned Counsel appearing on behalf of the petitioner, while challenging the order of cognizance as well as the entire proceeding, submits that from the complaint petition itself, it is clear that the dispute was civil in nature. However, during the pendency of this petition, the complainant died. It was submitted that in respect of the land in question, which was subject matter of the complaint petition, a title suit was also filed by the complainant vide Title Suit No. 341 of 1998, which was pending in the court of Munsif, Gopalganj. After the death of complainant, his legal heir, namely, Paresh Kumar Singh was substituted as the plaintiff and subsequently, on the basis of compromise between the parties, the suit was decreed by an order dated 14.9.2005. Learned Counsel for the petitioner has placed Interlocutory Application i.e. I.A. No. 515 of 2007 and he has referred to Annexure-1 to the petition, which is the typed copy of order dated 14.9.2005 passed by the Additional Munsif-II, Gopalganj in Title Suit No. 341 of 1998.

6. Shri Lala Kailash Behari Prasad has appeared on behalf of the State.

7. After hearing learned Counsel for the petitioner and State and considering the facts and circumstances of the present case, particularly the fact that dispute was basically civil in nature and that too, it was compromised between the parties even in the present complaint as well as in the suit i.e. Title Suit No. 341 of 1998, and accordingly, the court is of the view that allowing the proceeding in Complaint Case No. C 509 of 1998, that too, even after the death of complainant, may not serve any purpose and as such, for the ends of justice, it is necessary to interfere with the order of cognizance.

8. In view of the facts and circumstances as indicated above, the order of cognizance dated 23.7.1998 passed by Judicial Magistrate, Ist Class, Gopalganj in Complaint Case No. C-509 of 1998, Tr. No. 589 of 1999, Tr. No. 412 of 2000 is hereby set aside and petition stands allowed.