

(2010) 11 PAT CK 0029

In the Patna High Court

Case No : Criminal Miscellaneous No. 34568 of 2007

Dinesh Sab @ Dinesh Prasad and Another

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 25-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2011) 3 PLJR 23

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—Two Petitioners, while invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, have prayed for quashing of an order dated 21.8.2006 passed by learned Additional Chief Judicial Magistrate, Benipur in Bahera P.S. Case No. 224 of 2005. By the said order, learned Magistrate has taken cognizance of offence under Sections 467, 468, 471, 420 and 120B of the Indian Penal Code.

2. Shri P.C. Gupta, Learned Counsel appearing on behalf of the Petitioners, while challenging the order of cognizance, submits that it was purely a civil dispute and for civil dispute, remedy available to the party was to approach the court of civil jurisdiction not the criminal court. In support of his stand, he has referred to a judgment reported in 2002 (2) PLJR (SC) 48 (Renuka Rai v. The State of Bihar and Ors.). On the ground that it was purely a civil dispute, Learned Counsel for the Petitioners has prayed for quashing of order of cognizance.

3. I have also heard Smt. Indu Bala Pandey, learned Additional Public Prosecutor for the State, who has submitted that in this case, earlier F.I.R. was registered, which was thoroughly investigated and thereafter charge-sheet was submitted and the learned Magistrate, after examining the material on record, has taken cognizance of the offence. It has been submitted that the learned Magistrate has

rightly passed the impugned order.

4. Besides hearing Learned Counsel for the parties, I have also perused the materials available on record. On perusal of the record, it appears that earlier a complaint case was filed vide C.R. No. 178 of 2005, which was subsequently, referred to the police for its registration and investigation u/s 156(3) of the Code of Criminal Procedure and, accordingly, an F.I.R. vide Bahera P.S. Case No. 224 of 2005 was registered on 24.10.2005 for the offence under Sections 467, 468, 471, 420 and 120B of the Indian Penal Code. From the impugned order, it appears that after investigation, police had submitted charge-sheet and thereafter, learned Magistrate, by the impugned order, has taken cognizance of the offence. After going through the materials on record, the court is of the view that the learned Magistrate has committed No. error. The Petitioners have not made out an exceptional case warranting exercise of inherent jurisdiction in their favour.

5. Accordingly, the petition stands rejected.

6. In view of rejection of this petition, interim order of stay dated 19.11.2008 stands automatically vacated.

7. Let a copy of this order be sent to the court below forthwith.