

(2012) 05 PAT CK 0093

In the Patna High Court

Case No : Criminal Miscellaneous No. 47427 of 2007

Govind Modi and Others, Murli Barnwal, Bhagwati Devi and
Renu Devi

APPELLANT

Vs

State of Bihar and Pushpa Devi

RESPONDENT

Date of Decision : 14-05-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 120B, 34, 436

Citation : (2012) 05 PAT CK 0093

Hon'ble Judges : Ashwani Kumar Singh, J

Bench : Single Bench

Advocate : Ranjan Kumar Jha, for the Appellant; Veena Kumar Jaiswal,
Assistant Public Prosecutor For the State, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice Ashwani Kumar Singh

1. Heard Mr.Ranjan Kumar Jha, learned counsel for the petitioners and Mrs. Veena Kumari Jaiswal, learned A.P.P. for the State. No one appears on behalf of the opposite party no. The prayer is for quashing of the order dated 5.1.2007 passed by the learned Chief Judicial Magistrate, Banka in Chandan P.S. Case No.52 of 2006 by which finding a prima facie case to be made out under sections 436/34 and 120B of the Indian Penal Code he has summoned the petitioners to face trial.

2. It is submitted that the present case was registered as counter blast of the case registered by petitioner no. 1 Govind Modi, being Chandan P.S.Case No.51 of 2006 dated 18.10.2006 u/s 436/34 of the Indian Penal Code. Learned counsel submits that though upon investigation, the investigating officer found no material against the petitioners but the supervising authority found the allegation true and directed the investigating officer to submit charge-sheet against the petitioners and, accordingly, they were sent up for trial. The learned Magistrate

failed to apply his mind while taking cognizance of the offence and summoning the petitioners to face trial.

3. Having heard I find that the present case was instituted initially as a complaint which was referred to the police for institution of first information report and investigation in terms of section 156(3) of the Code of Criminal Procedure. The police investigated the case and finding substance in the allegation submitted charge-sheet against the petitioners. The court on perusal of the materials available on record found a prima facie case to be made out and, thus, summoned the petitioners to face trial. The defence of the petitioners cannot be looked into at this stage. It is well settled that at stage of cognizance a meticulous examination of evidence collected in course of investigation is not to be made. What is to be seen is as to whether a prima facie case is made out or not. At this stage, it cannot be said that the impugned order suffers from any illegality. In that view of the matter, I am not inclined to allow this application and, accordingly, the same is dismissed. However, the petitioners would be at liberty to raise all the points available to them at the stage of framing of charge before the court concerned.