
(2004) 05 PAT CK 0003

In the Patna High Court

Case No : Criminal Miscellaneous No. 30986 of 2003

Jagat Rai and Another

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 17-05-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 307, 427

Citation : (2004) 4 PLJR 122

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Advocate : Sudhir Singh, for the Appellant; Rudradeo Kr. Sinha for the State, for the Respondent

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Heard learned counsel for the petitioners and the counsel appearing for the State. This application has been filed in a peculiar circumstances for quashing the order dated 10.2.2003, passed by Chief Judicial Magistrate, Vaishali at Hajipur by which cognizance has been taken under Sections 147, 148, 307 and 427 of the Indian Penal Code.

2. Lalganj P.S. Case no. 59 of 1981 was instituted with regard to occurrence which took place on 4.1.1981 and after investigation chargesheet was submitted being Chargesheet No. 85 of 1981 under Sections 147, 148, 307 and 427 of the Indian Penal Code. The matter remained pending for long 22 years and thereafter by order dated 10.2.2003 cognizance has been taken by the Chief Judicial Magistrate, Vaishali at Hajipur. It has been submitted by the counsel for the petitioners that the allegations which is made in the F.I.R, do not make out an offence u/s 307 of the Indian Penal Code. It has also been submitted that the matter remained pending for long 22 years. Parties are gotias and they have also compromised the matter out of the court and a compromise petition has also been filed before the court concerned.

3. As the informant is not ready to pursue the matter, the counsel for the petitioners has also stated that even in non compoundable offence it has been held by the Supreme Court that on account of delay such matters can be compromised. Most surprising aspect of this case is that even after submission of the chargesheet the Magistrate has kept this matter pending for 22 years for taking cognizance.

4. On consideration of the F.I.R. it is also apparent that the allegations are not sufficient to make out an offence u/s 307 of the Indian Penal Code. Apart from delay, since the parties have compromised the case and they have also filed compromise petition, there are sufficient grounds for quashing the order taking cognizance. Accordingly this application is allowed and the impugned order taking cognizance dated 10.2.2003, passed by the Chief Judicial Magistrate, Vaishali at Hajipur in Lalganj P.S. Case No. 59 of 1981 is hereby quashed.