
(2007) 02 PAT CK 0160

In the Patna High Court

Case No : Criminal Miscellaneous No. 28235 of 2006

Kanhaiya Lal Darak

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Companies Act, 1956 — Section 162, 220, 220(B)
Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2007) PLJR 659

Hon'ble Judges : Ghanshyam Prasad, J

Bench : Single Bench

Advocate : Ajay Prasad, for the Appellant; R.B.S. Pahepuri, for the Respondent

Final Decision : Allowed

Judgement

Ghanshyam Prasad, J.—Heard. This application u/s 482 Cr. P.C. had been filed to quash the order of cognizance dated 8.10.2004 passed by Special Judge, Economic Offence in Complaint Case No. 272(C) of 2004 thereby and thereunder cognizance u/s 220(B) of Companies Act, 1956 has been taken against the petitioner and others.

2. The Submission of the learned counsel for the petitioner is that the petitioner and others have been prosecuted for non-submission of the return and balance sheet for the period of 2002-2003. Non-submission of the return etc. is punishable u/s 220 of the Companies Act, 1956 in which the maximum punishment is a fine only of Rs. 50/- per every day during which the default continuous (Section-162). It is further submitted that the petitioner-Company has already deposited the fine through Annexure-3. Further submission is that delay has been condoned by the court below without hearing the petitioner, which is mandatory for which he has relied upon a decision reported in 2007 (1) PLJR 338.

3. Perused the complaint petition, impugned order and also considered the

submission of the learned counsel for the petitioner. Since fine has already been deposited by the petitioner and the cognizance has been" taken after lapse of period of limitation without hearing the petitioner it would not be proper to allow the criminal prosecution in question to continue. It would amounts to misuse of process of the court. Accordingly, this application is allowed and the impugned order of cognizance so far it relates to the petitioner is quashed.