
(2006) 12 PAT CK 0041

In the Patna High Court

Case No : Criminal Miscellaneous No. 2160 of 2006

Kapil Shah @ Kapil Deo Prasad

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 04-12-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 468, 482
Penal Code, 1860 (IPC) — Section 406

Citation : (2007) 1 PLJR 599

Hon'ble Judges : Ghanshyam Prasad, J

Bench : Single Bench

Advocate : Chakradhari S. Singh, Sarad Kr. Singh and Arbind Nath Pandey, for the Appellant;

Final Decision : Allowed

Judgement

Ghanshyam Prasad, J.—Heard. This application u/s 482 Cr.P.C. has been filed to quash the order of cognizance dated 23.2.2001 passed by Judicial Magistrate, Sasaram in Complaint Case No. 23(c) of 2001, Trial No. 1238 of 2005 as well as its revisional order dated 5.10.2001 passed by Sessions Judge, Sasaram in Cr. Revision No. 207 of 2001.

2. It is submitted on behalf of the petitioner that the date of occurrence is said to be of the year 1993, but the complaint has been filed after lapse of eight years of the alleged occurrence. It is further submitted that the allegation contained in the complaint petition also does not disclose any criminal offence. It is out and out a case for recovery of the sale price of rice. It is further submitted that vide revisional order dated 5.10.2001, the petitioner has been directed to be prosecuted only u/s 406 I.P.C. in which the maximum punishment is three years. Therefore, the cognizance taken after eight years of the alleged occurrence is also barred u/s 468 of the Cr.P.C.

3. Considered the submission of the learned counsel for the petitioner and also the allegation levelled in the complaint petition. On perusal of the allegation, it is

quite clear that it does not disclose ingredients of any criminal offence. This case has been filed with a sole view to recover the price of rice which was sold in the year 1993. It is well settled that criminal forum should not be used to settle the civil dispute. Apart from, it, the complainant has approached the criminal court at a very belated stage. Apparently, this is a misuse of process of the court. In view of that, this application is allowed and the impugned order of cognizance as well as revisional order is hereby quashed.