
(2002) 05 PAT CK 0015

In the Patna High Court

Case No : Criminal Revision No. 192 of 2002

Md. Shamim and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-05-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 210

Citation : (2002) 4 PLJR 829

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

**Advocate : Laxmi Narayan Das, S. De and Amitabh Sohan, for the Appellant;
R.B. Singh Pahapuri, for the Respondent**

Final Decision : Allowed

Judgement

Shiva Kirti Singh, J.—Heard learned Counsel for the Petitioners and learned Counsel for the State. In spite of notice to complaint OP No. 2, she has not chosen to appear and contest this revision application.

2. The impugned order of cognizance dated 13.2.2002 passed by Judicial Magistrate Patna in complaint case No. 1915(c)/ 2001 has been assailed by the accused persons who are Petitioners in the revision petition mainly on the ground that order of cognizance is contrary to provisions in Section 210 of the Code of Criminal Procedure. According to learned Counsel for the Petitioner, with regard to the same very occurrence Budha Colony PS Case No. 93 of 2001 was instituted at the instance of the complainant on 30.9.2001 and the said police case is still pending at the stage of investigation. Allegedly the complainant has suppressed this fact in the complaint Petition and when the Petitioners wanted to bring this fact to the notice of the learned Magistrate, they were not permitted to do so on the ground that accused persons have no locus standi till cognizance is taken by the court.

3. The materials on record which have not been controverted by any of the

parties support the contention that a Police Case is pending regarding the same allegation which are subject matter of the present complaint case. In such circumstances, learned Magistrate was required to follow the procedure laid down u/s 210 of the Code- of Criminal Procedure and accordingly, stay the proceedings of enquiry or trial in the complaint case and should have proceeded further only after calling for a report on the matter from the police officer conducting the investigation. Obviously, such a course as required by law has not been adopted by the Magistrate because the complainant concealed the relevant facts in the complaint petition, In such circumstances, if the contention of the Petitioners is correct that they wanted to bring the relevant facts to the notice of the learned Magistrate then the learned Magistrate should have taken note of such limited submission in the interest of justice because such a submission of relevant facts related to an important matter relating to manner of exercise of jurisdiction by the Magistrate. Otherwise also where certain relevant facts are brought to the notice of a court which can cure the ill effects of suppression of vital facts by one of the parties then the court concerned will always have jurisdiction to examine such facts and present play of any kind of fraud upon the court.

4. In the facts and circumstances of the case, this revision application is allowed, the impugned order is set aside and the learned Magistrate is directed to ask for a report from the concerned police officer regarding pendency of the police case and then proceed afresh in the matter in accordance with law.