

(2023) 05 PAT CK 0077

In the Patna High Court

Case No : Criminal Revision No. 661, 834 Of 2022

Mursal Ahmad @ Mufti Mursal Ahmad

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 05-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 323, 401, 406, 420, 504
Code Of Criminal Procedure, 1973 — Section 320, 320(6)

Citation : (2023) 05 PAT CK 0077

Hon'ble Judges : Dr. Anshuman, J

Bench : Single Bench

Advocate : Bijay Kumar Pathak, Sanjay Kumar Singh, Bajarangi Lal, Ashish Kumar Ghosh, Nagendra Prasad, Md. Shakir Ahmad

Final Decision : Dismissed

Judgement

Counsel for the petitioner submits that the present Cr. Revision application has been filed for setting aside the order dated 02.08.2022, passed by the Additional Session Judge-Ist Class, Kisanganj in Cr. Appeal No. 11 of 2019 (CIS No. 11 of 2019) arising out of judgment and order on sentence dated 31.07.2019 passed by the learned Judicial Magistrate Ist Class, Civil Court, Kisanganj passed in Trial No. 47 of 2019 corresponding to General Registered No.402 of 2013 (CIS No. 3525 of 2013) Kochadhaman P.S. Case No. 54 of 2013 lodged under Sections 323, 406, 420, 504, 120(B) of the I.P.C.

Cognizance has been taken in this case under Sections 323, 406, 420, 504, 120(B) of the I.P.C. Charge has been framed under Sections 323, 406, 420, 504, 120(B) of the Indian Penal Code.

The Judicial Magistrate, Ist Class convicted the accused persons under Sections 420 and 120(B) of the Indian Penal Code and two accused persons were convicted under simple imprisonment of three years and fine of Rs. 5,000/- in default of fine both shall undergo an imprisonment of another one month.

Being aggrieved and dissatisfied with the order of conviction by the original Court the convicts have preferred criminal appeal no. 11 of 2019 (CIS No. 11 of 2019). In the said Criminal Appeal vide order dated 02.08.2022, the appeal was dismissed and the order passed by the Trial Court of conviction under Sections 420 and 120(B) of Indian Penal Code was affirmed.

Being aggrieved and dissatisfied with the order dated 02.08.2022 passed in Cr. Appeal No. 11 of 2019 both the appellants have preferred two Cr. Revisions before this Court bearing Cr. Revision no. 661 of 2022 and Cr. Revision no. 834 of 2022. After initial stage the private respondent (informant of the case) appeared upon notice.

During pendency of these Cr. Revisions good sense prevailed among the parties and instead of contesting this case they become ready to enter into a negotiation. Vide order dated 26.04.2023, the parties jointly prayed to this Court that the compounding amount has been settled between the parties and adjournment may be granted to them so that the settlement amount may be handed over and a petition for compounding the cases may be filed.

Today both the parties have filed joint compromise petition with I.A. No. 01 of 2023. According to the said compromise they have accepted that a good sense prevailed among them and they entered into compromise upon interference of relative and welfare of the respective families, outside the Court. In lieu of the compromise, the accused persons are paying Rs. 4,00,000/- (Rupees Four Lac) to O.P. No.2 as full and final "one time settlement", bearing cheque no. 010065 of Central Bank of India dated 03.05.2023, amounting Rs. 2,50,000/- and cheque no. 003894 of Union Bank of India amounting Rs 1,50,000/- dated 03.05.2023, in the Court itself through their counsels which have been accepted by counsel of O.P. No. 2.

Parties are ready that none of them will have any claim against each other in the future.

It is also be accepted that learned respective advocates appearing on behalf of the petitioner and O.P. have put their signature on compromise and they have verified that compromise has taken place between the respective parties.

The provision of compounding of the cases are laid down under Section 320 of the Code of Criminal Procedure, 1973. Under Section 320(6) of the Code of Criminal Procedure it is stated that the High Court acting exercise of its power of Revision under Section 401 of the Indian Penal Code may allow any person to compound any offence, which such person competent to compound under this section. Here in the present case, the conviction has taken place under Section 420 of the Indian Penal Code which is compoundable in the nature by the person cheated.

Here in the present case the offence is under Section 420 and 120(B) of the Indian Penal Code the character of 120(B) Indian Penal Code is to run according

to the main offence i.e. Section 420 of the Indian Penal Code. The exchange of cheque took place before the Court. The copy of the cheque is attached in the compromise petition.

In this view of the matter and power so vested in this Court by virtue of Section 320(6) of the Code of Criminal Procedure, this case is hereby disposed off. In the light of compromise, the Court is hereby removing the stigma of conviction against the accused persons.

It is made clear that in case the said cheques bounced back then the O.P. no.2 shall be at liberty to file an application before this Court and in case of bouncing of cheques mentioned above, the order passed today shall not operate and Cr. Revision stands dismissed.