
(2007) 07 PAT CK 0144

In the Patna High Court

Case No : Criminal Miscellaneous No. 27432 of 2002

Naseemuddin and Another

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 04-07-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 201, 392

Citation : (2007) 4 PLJR 679

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Surendra Prasad Singh and Md. Kamaluddin, for the Appellant; J. Upadhyaya, for the Respondent

Final Decision : Dismissed

Judgement

Abhijit Sinha, J.—Through this application these two petitioners herein husband and wife by relationship seek to invoke this Court's jurisdiction u/s 482 of Cr.P.C. for quashing of the order dated 28.6.2002 passed by the learned Sessions Judge. Gaya, in Cr. Revision No. 70 of 2002 whereby while rejecting the revision application he has upheld the order dated 5.4.2002 passed by Sri A.K. Jha, Incharge, Sub-Divisional Judicial Magistrate, Sherghati, Gaya, in Barachatti P.S. Case No. 127 of 2000 (G.R. No. 415 of 2000) under Sections 392 and 201 of the I.P.C. refusing to release the paper currency and three Bank Pass Books seized in course of investigation from the petitioners. For appreciation of the matter in issue the facts of the case may be noticed with relative brevity. It appears that pursuant to the commission of an occurrence at the Petrol Pump on G.T. Road near Village-Surya Mandal whereat a sum of about Rupees 2 lacs were looted at pistol point by three unknown men coming on a motor cycle at around 11.15 A.M. on 3.7.2000 Barachatti P.S. Case No. 127 of 2000 was registered on the basis of the fardbeyan given by one Devanand Prasad, a Nozzel man of the Petrol Pump, against three unknown persons. Subsequently after due investigation a charge-sheet was submitted against the Manager of the Petrol Pump only. It

transpires that on the basis of some confidential information petitioner no. 1, Nasimuddin, was arrested on 21.2.2002 and on the basis of his confessional statement a sum of Rs. 14,000/- of the looted money and three Pass Books of different Banks were seized from his possession under a seizure list and Nasimuddin and his wife (petitioner no. 2) were taken into custody.

2. It has been submitted on behalf of the petitioners that Nasimuddin was made an accused after 1 1/2 years, of the occurrence and that too without any substance or cogent materials to connect the petitioner no. 1 with the offence in question. It has also been submitted that there is no material whatsoever on record to prove the fact that the paper currency recovered from possession/house of petitioner no. 1 was stolen property and the subject matter of the case in question. It was also sought to be submitted that one of the Pass Books, namely that of the State Bank of India, Anugrahpur Colony, was in the name of both the petitioners and petitioner no. 2 the wife of petitioner no. 1 was not an accused in the aforesaid case and as such the bank Pass Book belonging to her could not be withheld and the courts below have erred in refusing to release the same in favour of the petitioners moreso when there was no other claimant of the seized properties and that too when they were not connected with the crime in question and when there was no substantive material to declare the seized article as stolen property.

3. Opposing the prayer the learned A.P.P. sought to submit that petitioner no. 1 Nasimuddin is a dreaded criminal and several cases involving major criminal offences were pending against him. It was also submitted that it was on the basis of confession of Nasimuddin that the paper currency said to be a part of the booty of the loot was recovered from his house and a supplementary charge-sheet had been submitted against him.

4. On specific query being made regarding the heavy deposit of cash in the bank the learned counsel for the petitioners submitted that petitioner no. 1 Nasimuddin was a tailor by profession and petitioner no. 2, his wife, ran a boutique and the earning therefrom had been deposited in the Bank Accounts.

5. Be that as it may it was on the basis of the confession of petitioner no. 1, Nasimuddin, regarding his involvement in the crime that part of the booty, of the looted sum from the Petrol Pump of Rs. 14,000/- was recovered from his house alongwith the Bank Pass Books. Since the money recovered and seized is in respect of the money looted from the Petrol Pump and the Pass Books reveal deposit of huge amounts presumably disproportionate to his income, it would not be proper to release the same in favour of the petitioners. Accordingly, I find no merit in the application which is dismissed.