
(2008) 02 PAT CK 0180

In the Patna High Court

Case No : Criminal Miscellaneous No. 3818 of 2007

Prashant Kumar Das @ P.K. Das and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 05-02-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 409, 418, 424

Citation : (2009) 1 PLJR 45

Hon'ble Judges : Syed Md. Mahfooz Alam, J

Bench : Single Bench

Advocate : Ram Binay Singh, for the Appellant; Bhanu Pratap Singh for the State of Bihar and M/s N.K. Agrawal, D.N. Tiwary and Saket Tiwary for the O. P. No. 2, for the Respondent

Final Decision : Allowed

Judgement

Syed Md. Mahfooz Alam, J.—This application has been filed for quashing the order dated 30.12.2004 passed in Town (Muzaffarpur) P.S. Case No. 178/99, Tr. No. 813/2006 whereby the learned Chief Judicial Magistrate, Muzaffarpur, has taken cognizance of the offence under Sections 409, 418, 424 of the Indian Penal Code against the petitioners. This record was reserved for orders. In the meantime, a counter affidavit on behalf of respondent No. 2 has been filed on 1.2.2008 stating therein that both the parties have settled their accounts as per their available statements and the opposite party No. 2 (complainant) has arrived at an agreement that MMTC Ltd. shall pay Rs. 1,79,184.34 to the opposite party No. 2 towards full and final settlement of the account after deducting earlier payment made by the said company against the bank guarantee of rupees five lacs. It has been stated in the affidavit that as per the settlement the company (MMTC Ltd.) has prepared a demand draft of Rs. 1,79,184.34 in favour of M/s Fertilizer Agency, Muzaffarpur, of which opposite party No. 2 is the Proprietor. It has also been stated in the affidavit that the aforesaid draft has been handed over to the learned counsel for the opposite

party No. 2, namely, Mr. D.N. Tiwari, Advocate, who is appearing on behalf of opposite party No. 2 with stipulation that the same will be handed over to opposite party No. 2 after the disposal of this quashing application in terms of compromise. It has further been stated that opposite party No. 2 has got no objection if the instant quashing application is allowed in favour of the petitioners.

2. In view of the counter affidavit filed on behalf of opposite party No. 2 and also in view of the fact that after settlement of dispute of accounting the opposite party No. 2 has got no interest in prosecuting the criminal case lodged against the petitioners, I am of the view that this quashing application should be allowed. Accordingly, the impugned order dated 30.12.2004 whereby the learned Chief Judicial Magistrate, Muzaffarpur, has taken cognizance of the offence under Sections 409, 418, 424 of the Indian Penal Code against the petitioners in Town (Muzaffarpur) P.S. Case No. 178/99 (Tr. No. 813 of 2006) is set aside and the further proceedings of the said case against the petitioners is ordered to be dropped. Accordingly, this application for quashing is allowed in terms of the compromise.