

(2007) 05 PAT CK 0059

In the Patna High Court

Case No : Criminal Revision No. 1022 of 2006

Pushpa Tekriwal @ Shakuntala Devi and Another

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 22-05-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 406, 420

Citation : (2007) 4 PLJR 298

Hon'ble Judges : Shyam Kishore Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shyam Kishore Sharma, J.—This revision application is directed against the order dated 23.10.2006 passed in Complaint Case No. 982C of 2005 by the Judicial Magistrate, Khagaria whereby the prayer for withdrawal of the Complaint Case No. 982C of 2005 was dismissed in spite of the fact that complainant was not willing to contest the case as the matter has been compromised between the parties. The brief facts leading to this petition relates to a complaint filed by O.P No. 2 before the C.J.M., Khagaria vide Complaint Case No. 982C of 2005. The complainant alleged that there was dispute between the parties with regard to purchase of land. The complaint was filed on 8.12.2005 through advocate and on 13.12.2005 the complainant made his solemn affirmation. Witnesses have supported the case and cognizance under sections 406,420 and 120B IPC was taken. Subsequently at the intervention of the common friends the matter was settled outside the Court and a petition was filed by the complainant in the Court below on 1.7.2006 in which he prayed that he may be allowed to withdraw the complaint case. A petition before this Court vide Cr. Misc. No. 16075 of 2006 was filed for quashing the cognizance order in the Complaint Case No. 982C of 2005 which was disposed of on 20.9.2005 after appearing the opposite party No. 2 the complainant. In that case the petition filed for withdrawal of the complaint case with affidavit has been brought on the record and after hearing both sides this

Court directed the Court below to dispose of the withdrawal petition which is annexed at Annexure-4.

2. Subsequently the complainant filed a petition in the Court below on 20.10.2006 for withdrawal of the complaint. The application was considered but the petition was rejected on the ground that the Court was not competent to pass such order as it was warrant trial matter. That has been challenged.

3. The complainant was duly noticed. Notice was validly served but he did not appear.

4. Learned counsel for the petitioner submits that in view of the fact that the matter has been compromised the complainant was not willing to come to this Court despite the valid service of notice. None appearance of the complainant shows that he has no objection if the reliefs sought for by the petitioner is allowed.

5. In the order dated 7.12.2006 it has been mentioned that it was a case of outright civil dispute and the complaint was primarily filed for specific performance and that too of an oral agreement for which no prosecution could lie.

6. From the records it appears that the complainant has no objection if this application is allowed. The impugned order dated 23.10.2006 is set aside. Accordingly the complaint case shall remain quashed. This revision application is allowed.