

(2010) 04 PAT CK 0031
In the Patna High Court

Ram Dulari Devi

APPELLANT

Vs

The State of Bihar and B.K. Sinha Proprietor Beekey
Securities

RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 192, 482
Negotiable Instruments Act, 1881 (NI) — Section 138
Penal Code, 1860 (IPC) — Section 420

Citation : (2010) 04 PAT CK 0031

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—When the case was called out, none appeared on behalf of the petitioner either to press this petition or to make a prayer for adjournment.

2. In this case, by order dated 26.8.1999, while issuing notice to opposite party No. 2 to file show cause, this Court had directed that in the meantime, further proceeding in Complaint Case No. 713(c) of 1997 pending in the court of Smt. Rita Mishra, Judicial Magistrate, Ist Class, Patna, so far as the petitioner is concerned, shall remain stayed Subsequently, on 5.12.2000, this case was admitted for hearing and it was directed that during the pendency of this application, interim order dated 26.8.1999 passed by this Court shall continue.

3. In this case, the opposite party No. 2 had appeared and filed a show cause and it was stated that the petitioner has not stated the true picture of a case. However, at the time of hearing, none appeared even on behalf of opposite party No. 2.

4. While invoking inherent jurisdiction of this Court u/s 482 of the Code of Criminal Procedure, the petitioner in paragraph-1 of the petition has prayed for quashing of order of cognizance dated 3.7.1997 in Complaint Case No. 713(c) of 1997. It was stated in the petition that vide order dated 3.7.1997, the Chief

Judicial Magistrate had taken cognizance and it was stated that Chief Judicial Magistrate has perused the complaint petition and examined the complainant on S.A., this case is made over to Smt. Rita Mishra, Judicial Magistrate, Ist Class to examine the case herself for the purpose of deciding whether or not there is sufficient ground for proceeding and if she finds that there is sufficient ground for proceeding, she will issue process against the accused persons. In paragraph-2 of the petition, it has been categorically stated that order of cognizance dated 3.7.1997 does not disclose as to under which Section of I.P.C. or under any other Act, cognizance has been taken by the learned Judicial Magistrate.

5. I have perused the order dated 3.7.1997, which indicates that after filing the complaint petition, the learned Chief Judicial Magistrate transferred the case to Smt. Rita Mishra, Judicial Magistrate, Ist Class u/s 192 of the Cr. P.C.

6. After receipt of the case record, it appears that the complainant was examined on S.A. and one witness was also examined in support of the complainant in the court of Smt. Rita Mishra, Judicial Magistrate, Ist Class, patna. The complainant also produced certain documents and after examining the materials available on record by the order dated 12.8.1997, Smt. Rita Mishra, Judicial Magistrate, Ist Class has taken cognizance for the offence u/s 420 of the I.P.C. and Section 138 of the Negotiable Instrument Act.

7. Prima facie, I am of the view that the petitioner has not come with clean hand and made incorrect statement particularly in paragraphs 1 and 2 of the petition. I do not find any merit in the present petition and petition stands rejected.

8. In view of rejection of this petition, interim order of stay stands automatically vacated.

9. Let a copy of this order be communicated to the court below forthwith.