

(1978) 02 PAT CK 0027

In the Patna High Court

Case No : Cril Miscellaneous No. 750 of 1977

Shiveshwar Prasad Narain Singh

APPELLANT

Vs

Braj Kishore Singh

RESPONDENT

Date of Decision : 01-02-1978

Acts Referred:

Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 — Section 20

Citation : (1978) 26 BLJR 668

Hon'ble Judges : Shiveshwar Prasad Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shiveshwar Prasad Sinha, J.—This application is directed against the order dated the 1st February, 19.77 passed by the learned Chief Judicial Magistrate, Samastipur taking cognizance of an offence u/s 20 of the Bihar Building (Lease, Rent and Eviction) Control Act, 1947 (Bihar Act 3 of 1947) (hereinafter referred to as "the Act) against the petitioner.

2 The petitioner is the landlord of a building situate in one of the localities in the town of Samastipur and the complainant is his tenant. On the 24th November, 1976 the tenant filed a complaint before the Chief Judicial Magistrate, Samastipur alleging that one of the amenities which was available to him in the house under his tenancy, had been suddenly discontinued by the landlord. That amenity was supply of electrical energy in the house. According to the tenant even when the Electricity Department came to restore the electric connection in the house the landlord did not permit it to be done. According to the complaint such an act on the part of the landlord clearly Contravened the provisions of the said Act and that, therefore, the landlord was liable to be punished.

The learned Chief Judicial Magistrate, after observing the due formalities in respect of the petition of complaint, observed that no doubt in terms of Section 10 of the Act the tenant is required to approach the House Controller for getting

the amenities restored but that provision by itself does not shut out a complaint being directly made to his court, complaining of an offence punishable u/s 20 of the Act. He, therefore, has taken cognizance.

3. I must say that as an abstract proposition of law, such a point is not free from difficulty. If a contravention be such as may constitute also an offence under the general law of crimes, a question relating to the forum for the complaint may arise. But that is not the case here. But for the provisions contained in Section 10(1) of the Act, which prohibits the with-holding of an amenity to the tenant and makes its cotitravention an offence, such withholding of the amenity by a landlord would not constitute an offence under the general law. Necessarily, therefore, on the facts of the instant case, when the matter is required to be specifically dealt with by an authority prescribed under the Act, the tenant must approach that authority for the redress, instead of moving the criminal court.

4. I would therefore, set aside the impugned order dated the 1st April, 1977. The application is allowed.