

(2010) 11 PAT CK 0132

In the Patna High Court

Case No : Criminal Miscellaneous No. 35736 of 2006

Surendra Sharma

APPELLANT

Vs

The State of Bihar and Balmiki Singh

RESPONDENT

Date of Decision : 03-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, 384, 440

Citation : (2010) 11 PAT CK 0132

Hon'ble Judges : Akhilesh Chandra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Akhilesh Chandra, J.—Heard learned Counsel for the Petitioner and learned Additional Public Prosecutor for the State.

2. This is an application u/s 482 of the Code of Criminal Procedure seeking quashing of order dated 08.08.2004 passed by Judicial Magistrate, 1st class, Jehanabad, in Complaint Case No. 28/2004 taking cognizance for the offences under Sections 120B, 384 and 440 of the Indian Penal Code.

3. The relevant facts in this case is that complainant opposite party No. 2 is a loanee who got a loan of Rs. 11,400/- in the year 1992, part amount could be paid by him and for remaining amount certificate proceeding No. 275/1995-96 was initiated. The grievance of the complainant as it appears from the complaint petition is that the interest claimed against him appears to be more than principal amount advanced to him which according under law cannot be realized from the complainant, but, accused persons are persuaded to make payment of all the claims levelled against him, in this way, they intended to cheat and exhort undue amount. The court below after inquiry took cognizance giving rise to this application.

4. Since admittedly, loan was granted to opposite party No. 2 who admittedly

made part payment and legal proceeding to realize the amount by way of certificate proceeding is going on, whatever grievances against the amount claimed as interest accrued to the complainant it may be raised and decided in the connected proceeding under law. But, by initiating the certificate proceeding to realize amount granted as loan with interest, even if claiming a bit beyond limit of interest cannot constitute any criminal offence. So no criminal proceeding can be permitted under law to continue. Hence, impugned order appears not sustainable, consequently, it is quashed and this application stands allowed.