

(2011) 59 BLJR 1088 : (2011) 3 Crimes 279 : (2011) 3 PLJR 214

Patna High Court

Case No: Criminal Miscellaneous No. 25278 of 2006

Shashi Kant Tiwari and
Others

APPELLANT

Vs

The State of Bihar and
Lalsa Devi

RESPONDENT

Date of Decision: March 18, 2011

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 210
- Penal Code, 1860 (IPC) - Section 341, 380, 452, 504, 506

Citation: (2011) 59 BLJR 1088 : (2011) 3 Crimes 279 : (2011) 3 PLJR 214

Hon'ble Judges: Sheema Ali Khan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Sheema Ali Khan, J.

This application has been filed for quashing of the order dated 19.04.2006 passed by in Complaint Case No. 416 of 2005 by which the Judicial Magistrate, 1st Class, Kaimur at Bhabhua has taken cognizance for the offences under Sections 380, 452, 504, 506 & 341 of the Indian Penal Code

2. The facts are that on 20.04.2005, the father-in-law of Lalsa Devi, Ramashankar Tiwari lodged First Information Report against unknown persons in which it is said that in the night of 19th/20th April, 2005, some persons entered into the house and stole away cash and other household items and articles. 12 days after the said occurrence, Lalsa Devi lodged this case naming the Petitioners as the persons, who had committed the said crime in the night of 19th /20th April, 2005.

3. Learned Counsel for the Petitioner referring to Section 210 of the Code of Criminal Procedure submits that the provisions thereof envisage that if during the course of enquiry or trial held by a Magistrate, it comes to his notice that a similar case has been filed which is being investigated by the Police in relation to the same offence which is the subject matter of the enquiry, he should stay the proceedings and call for a report from the Investigating Officer.

4. In the present case, the fact that First Information Report has been instituted by the father-in-law was not brought to the notice of the Magistrate in the complaint case, as such he had no knowledge that First Information Report is pending for the same occurrence. Once, it has come to the knowledge of this Court that an First Information Report has been instituted for the same occurrence, the complaint petition cannot be permitted to continue. If during the police investigation or otherwise, the Police gathers information regarding the participation of any persons in the said occurrence, the Investigating Officer would be at liberty to record this finding in the investigation and file charge sheet or use any other legal methods to see that the guilty are made to face the trial.

5. I may also observe that filing of a second case by way of compliant, specifically naming certain persons as the miscreants after a delay of 12 days and not disclosing this fact to the father-in-law who had earlier lodged a case regarding the said theft, creates doubt in this Court's mind regarding the veracity of the complaint case.

6. I thus quashed the order of cognizance dated 19.04.2006 and direct the Court below to call for a report from the concerned Police Station with respect to Ramgarh Police Station Case No. 47 of 2005 before proceeding in the complaint case.

7. In the result, this application is allowed to the extent mentioned aforesaid.

8. Counsel for the Petitioner is directed to produce a copy of this order before the concerned Court within a period of six weeks from the date of receipt/production of a copy of this order.