

(2011) 05 PAT CK 0077

Patna High Court

Case No: Criminal Miscellaneous No. 36577 of 2007

Shambhu Sharan Srivastava

APPELLANT

Vs

The State of Bihar and Mostt.
Dharamshila Devi

RESPONDENT

Date of Decision: May 10, 2011

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 34, 420, 423

Hon'ble Judges: Sheema Ali Khan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Sheema Ali Khan, J.

This application has been filed for quashing the order dated 7.6.2007, passed in Complaint Case No. 528C/07 by which the Court below has taken cognizance for offences under Sections 420, 423/34 and 120B of the Indian Penal Code.

2. The Complainant is Mostt. Dharmshila Devi. She has alleged that she executed a sale deed for a small piece of land in favour of Arvind Kumar. It is alleged that Arvind Kumar converted the papers on which she had signed, into a power of attorney in his favour. Using this power of attorney the said Arvind Kumar and Alok Kumar sold her lands to different persons mentioned in the complaint petition.

3. Learned Counsel for the Petitioner submits that as far as Shambhu Sharan Srivastava one of 11 accused in complaint petition, there is not a word against him in the complaint petition, S.A. or evidence of the other witnesses who were examined in support of the complaint case.

4. On perusal of the complaint case I find, that in fact not a single word has been said regarding the role of the Petitioner in the said conversion of the sale deed into a power of attorney. It has also not been indicated as to whether the Petitioner was one of the purchasers, witnesses or even scribe of the sale deed/power of attorney.

In the circumstances aforesaid, I find that this is a case of no evidence against the Petitioner and as such I quash the order of cognizance dated 7.6.2007, passed in Complaint Case No. 528C/2007 as far as it concerns the Petitioner.

5. This quashing application is thus, allowed.