

(2010) 04 PAT CK 0170

Patna High Court

Case No: None

Mahendra Prasad Singh @
Mahendra Narain Pratap Singh
@ Mahendra Narain Prasad
Singh and Pranay Kumar

APPELLANT

Vs

The State of Bihar and Ashok
Kumar

RESPONDENT

Date of Decision: April 12, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Negotiable Instruments Act, 1881 (NI) - Section 138
- Penal Code, 1860 (IPC) - Section 120B, 323, 34, 379, 406

Hon'ble Judges: Rakesh Kumar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar, J.

On 9.4.2010 when the case was called out, none appeared on behalf of the petitioners either to press this petition or even to make a prayer for adjournment. However, as a last indulgence, the case was adjourned for a day. Today, again when the case was called out, none has come forward to press this petition.

2. Petitioner No. 2, who was alleged to be the Director of M/S AGILE Marketing (P) Ltd., (herein after referred to as "the Company") registered under the Companies Act and petitioner No. 2, who was alleged to be an Accountant of the aforesaid Company, have approached this Court, while invoking its inherent jurisdiction u/s 482 of the Code of Criminal Procedure, with a prayer to quash the order of cognizance dated 8.7. 1998 for offences under Sections 406, 420, 467, 468, 469, 471, 120B, 379, 323 and 34 of the Indian Penal Code and Section 138 of the N.I. Act, passed by Sri S.S. Giri, Judicial Magistrate, 1st Class, Patna City. The petitioners have

also prayed for quashing of the entire proceedings of Complaint Case No. 329 of 1998. The complainant in the complaint petition has alleged that he was earlier appointed as Distributor of the said Company and during his distribution ship, a huge amount was to be paid by the accused persons and, as such, the accused persons have given different cheque to the complainant. On presentation of the cheques, the same were not honoured. The complainant has also alleged that in course of demand the due, the complainant was assaulted by the accused persons and in course of said occurrence, an offence of theft was also committed by the accused persons.

3. The present petition so far as petitioner No. 1 is concerned was admitted on 26.9.2002 and while admitting the case, this Court had directed that further proceeding with regard to petitioner No. 1 in Complaint Case No. 329 of 1998 shall remain stayed. At the time of admission, petition of petitioner No. 2 stood rejected by the order dated 26.9.2002.

4. After filing the complaint, the complainant was examined thereafter by the impugned order, i.e. 8.7.1998, the learned Magistrate has taken cognizance of the offences as stated above.

5. I have also examined the materials available on the record and I do not find any defect in the order of cognizance.

6. Accordingly, I do not find any merit in the present petition and the petition stands rejected.

7. In view of rejection of the present petition, the order of stay stands automatically vacated.

Late a copy of this order be sent to the court below forthwith.