

(2010) 11 PAT CK 0086

Patna High Court

Case No: Criminal Miscellaneous No. 34880 of 2006

Rameshwar Prasad, Anup Kumar
and Aditya Kumar

APPELLANT

Vs

The State of Bihar and Dr.
Pradeep Kumar Sen

RESPONDENT

Date of Decision: Nov. 4, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 144, 482
- Penal Code, 1860 (IPC) - Section 147, 148, 149, 323, 341

Hon'ble Judges: Akhilesh Chandra, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Akhilesh Chandra, J.

Heard learned Counsel Mr. Bashistha Narayan Mishra and Mr. Brij Kishor Mishra for the Petitioners and Smt. Shaheen Begum Additional Public Prosecutor for the State. There is none on behalf of the opposite party No. 2.

2. Learned Counsel for the Petitioners by filing supplementary affidavit pointed out that the entire complaint and order taking cognizance has been quashed by a Bench of this Court vide order dated 12th July, 2010 passed in Criminal Miscellaneous No. 11970 of 2004 filed by eight Petitioners, who figured as accused Nos. 1 to 8 in this complaint case, where in the three Petitioners figured as accused Nos. 9 to 11.

3. Learned Additional Public Prosecutor tried to laid emphasis that no doubt the proceeding has been quashed, but only with respect to the Petitioners before the Court in connection with the case, but it cannot be held applicable in the instant case. 4. Undisputedly, this application has been filed u/s 482 of the Code of Criminal Procedure seeking quashing of order dated 26.02.2003 passed in Trial No. 4817 of 2004 arising out of Complaint Case No. 992C of 2002 passed by Judicial Magistrate,

1st Class, Bettiah, West Champaran taking cognizance for the offences under Sections 147, 148, 149, 341, 323, 452, 380, 504 & 465 of the Indian Penal Code and another set of accused persons preferred Criminal Miscellaneous No. 11970 of 2004 with similar prayer.

4. As it appears from the complaint Petitioner as well as order of this Court referred to above the very complaint case was filed due to land dispute for which one proceeding u/s 144 of the Code of Criminal Procedure was also pending. The dispute appears related with caution of share of the parties and connected transaction etc.

5. In view of order of another Bench of this Court in similar circumstance, the impugned order and complaint proceeding in the instant case also stand quashed, consequently this application is hereby allowed.