

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 698 OF 2009

BIBHU BHUSHAN TRIVEDI

... APPELLANT(S)

VERSUS

NAGENDRA RAI & ORS.

...RESPONDENT(S)

O R D E R

The correctness of the impugned judgment and order dated 15.12.2006 passed by the High Court of Judicature at Patna in Criminal Miscellaneous No. 14327 of 2006

is

challenged by the appellant herein, who is

the

complainant, in whose instance the investigation was done

and an F.I.R. was filed against the respondents herein,

to

urging various legal contentions. There is no need

advert to the same having regard to the fact that the High

Court after noting the factual rival legal contentions for

exercising its discretionary power quashed the order of

taking cognizance dated 26.11.2005 passed by the C

hief

Judicial Magistrate against the respondents.

The

respondents herein were the petitioners before the High

Court. The High Court held that the allegations made under

Signature Not Verified

Digitally signed by the provisions of Sections 467, 468 and 471 of the Indian

Sushil Kumar Rakheja

Date: 2015.02.13

18:05:18 IST

Reason:

Penal Code ("IPC" for short) do not constitute an offence

as against the respondents herein as there no ingredients

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of the above provisions of the IPC and therefore do not

constitute an offence, particularly having regard to the

fact that civil suits being Title Suit No. 190/02 and

20/02 are pending before the Court at Chapra. Further, the

High Court has placed reliance, in support of its conclusion, the judgment in Ramashish Choudhary and Ors. vs. State of Bihar and Anr., 2000 (2) P.L.J.R. 243 in support of the proposition of law that there was a dispute regarding the execution of the sale deed and it was claimed that the purchaser was trying to use the land and the sale deed was a forged documents, in that case too the court has held that the questions raised in the complaint could not have been decided in a criminal case because it would be difficult for the criminal court to hold that the title to sell vested in one or the other parties and, therefore, the purchaser cannot be said that he had cheated any one including the complainant. The reasoning assigned by the learned High Court in quashing the summoning order cannot be said to be an error in law.

Learned senior counsel appearing on behalf of the appellant invited our attention to the decision of this Court in the case of State of Karnataka vs. M. Devendrappa & Anr., (2002) 3 SCC 89, wherein this Court interpreting power under Section 482 CrPC has held that while quashing of criminal proceeding in exercise of inherent power of the court, the court has to exercise the

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power sparingly, keeping in view the nature and circumstances in which such power may be exercised. In the case at hand, taking into consideration of the allegations made in the complaint the learned Magistrate has taken the cognizance of the same. There cannot be any doubt in regard to the proposition laid down by this Court, for the reasons recorded in the impugned order, the High Court has rightly exercised its discretionary power and quashed the summoning order holding that the civil dispute between the parties is pending and it is for the civil court to decide the same.

We do not find any good reason to interfere with the

impugned order. The appeal, being devoid of merit, is dismissed accordingly but no costs.

.....J.  
(V. GOPALA GOWDA)

.....J.  
(R. BANUMATHI)

NEW DELHI,  
FEBRUARY 10, 2015

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ITEM NO.4

COURT NO.10

SECTION IIA

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 698/2009

BIBHU BHUSHAN TRIVEDI

Appellant(s)

VERSUS

NAGENDRA RAI & ORS.

Respondent(s)

(with office report)

Date : 10/02/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Dr. J.N. Dubey, Sr. Adv.  
Mr. Anurag Dubey, Adv.  
Mr. Meenesh Dubey, Adv.  
Mr. S. R. Setia, Adv.

For Respondent(s) Mr. Debasis Misra, Adv.  
Mr. Gopal Singh, Adv.  
Ms. Prerna Singh, Adv.  
Ms. Rashmi Srivastava, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Heard learned counsel for the parties.

The appeal is dismissed in terms of the signed order.

(S. K. RAKHEJA)  
COURT MASTER

(MALA KUMARI SHARMA)  
COURT MASTER

(Signed order is placed on the file)