

ITEM NO.17

COURT NO.6

SECTION IIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGSPetition(s) for Special Leave to Appeal (CrI)... 2007
CRLMP.NO(s). 17753(From the judgement and order dated 12/03/2007 in WPCRL No. 341/2005 of the
HIGH COURT OF JHARKHAND AT RANCHI)

PAYRELAL THAKUR

Petitioner(s)

VERSUS

SUNIL KUMAR SHA & ORS.

Respondent(s)

(With CRL.M.P.No.17753/2007 for c/delay in filing SLP)

Date: 15/01/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Petitioner(s) Mr. Shekhar Prit Jha,Adv.
Mr. Bipin Kumar Jha,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.

This petition filed by the petitioner demonstrates as to how the
process of criminal law is being abused these days for ventilating
grievances arising out a pure civil dispute.Before the learned Chief Judicial Magistrate, a complaint
petition was filed by the petitioner herein purported to be for taking
cognizance and summoning of the witnesses for trial under Sections
467, 468, 471, 420 and 120(B) of the Indian Penal Code. The learned

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Chief Judicial Magistrate apparently did not apply his mind on the
allegations made in the complaint but referred the matter to the officer
incharge of the Deoghar Police Station to register a First Information
Report in purported exercise of his jurisdiction under sub-section (3) of
Section 156 of the Code of Criminal Procedure. The learned Chief
Judicial Magistrate even did not bother to find out as to whether a case
under the aforementioned provisions was prima facie made out or not.
Before the High Court, the only submission made on behalf of the State
was that a case under section 504 of the I.P.C. had been made out. The
learned Judge of the Jharkhand High Court opined:"Having heard learned counsel for the parties, I may say
that it has been well settled that the first information
report does not constitute any offence either under the

penal Code or any other statute. Here in the instant case, after going through the entire complainant petition/first information report, I do not find any ingredient for constitution of the offence either under Section 323, 448, 420, 386 or 406 of the Indian Penal Code. In that view of the matter, if this court does not exercise its jurisdiction, there would be miscarriage of justice."

Learned counsel for the petitioner vehemently argues that his client has become remediless as the authorities, while purporting to investigate into the matter, found out that forgeries have been committed in several official documents. As indicated hereinbefore, the only argument advanced on behalf of the State before the High Court was that the complaint petition disclosed one offence under Section 504 of the I.P.C.. Evidently, the parties hereto have a private dispute to settle, but therefor the petitioner resorted to criminal process so as to harass the respondents. The complaint petition on the face of it, in our opinion, was mala fide and furthermore in view of the fact that the offence under Section 504 of the I.P.C. being a non- cognizable offence, neither the learned Chief Judicial Magistrate has any jurisdiction to

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direct registration of a first information report, in exercise of his power under sub-section (3) of Section 156 of the Cr.P.C. nor the officer incharge of the Depghar Police Station derived any jurisdiction to start investigation on that basis. The High Court has, therefore, rightly quashed the first information report.

The special leave petition is dismissed with the aforementioned observations.

(A.S. BISHT)
COURT MASTER

(PUSHAP LATA BHARDWAJ)
COURT MASTER