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Court : Patna

Decided On : Nov-06-2006

Judge : Sheema Ali Khan, J.

Appellant : Mukesh D. Ambani and ors.

Respondent : State of Bihar and anr.

Judgement :

Sheema Ali Khan, J.

1. Heard learned Counsel for the petitioners and learned Counsel for the State.

2. The criminal complaint was lodged under Sections 403, 420 and 120B of the Indian Penal Code on 15-4-2005. While the case is still pending, the complainant filed an application dated 1-10-2005 in which he has made a prayer to the Court below that the offence against the accused should be permitted to be compounded as they come within the purview of Section 320 part-II of the Code of Criminal Procedure. The Magistrate has passed the order on the application filed by the complainant on 7-10-2005 in which he has said that the offence cannot be compounded as they are warrant triable.

3. I do not think that a correct view has been taken by the judicial Magistrate. If the complainant wants to compound the case and the provision is there under Section 320(2) of the Code of Criminal Procedure. He should be permitted to do so. The

complainant imply does not want to proceed with the case. The second ground taken by the learned Magistrate is that the accused persons have not appeared in this case. In my opinion, it is not necessary for the accused persons to appear in the case, since it is the complainant who has filed for compounding of the offence.

4. It is submitted on behalf of the petitioners that they have appeared and filed an application under Section 205 of the Code of Criminal Procedure to be exempted their personal appearance.

5. In the circumstances, the matter is remanded to the Judicial Magistrate, Patna, to consider the provisions of Section 320(2) of the Code of Criminal Procedure and pass appropriate order according to the observations made in this order.

6. This application is disposed of with observation aforesaid.

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