

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26025 of 2012

Arising Out of Complaint Case No.C-186 Year 2011 District- BHAGALPUR

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Awadh Kishore Thakur, son of late Shyam Narayan Thakur, resident of Mohalla
Ranibag, Building No. 1459-B, First Floor, P.S. Sarawati Vihar, Delhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ramdeo Pandey, son of late Sita Ram Pandey, resident of village Chandpur,
P.S. Pirpaiti, Distt. Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

For the State : Mr. Navin Kr. Pandey, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-03-2015

Counter affidavit filed on behalf of the Opposite Party No.

2 be kept on the record.

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated
3.4.2012 passed by the Judicial Magistrate, Bhagalpur, in Complaint
Case No. C-186 of 2011.

The allegation is that Informant was a retired
Government Official having a certain account in State Bank of India,
Pirpaiti Branch. The Petitioner, who happens to be the brother of the
accused no. 2, Informant's wife, and took her in collusion and started
to hatch a conspiracy to put him to financial loss. One Maintenance
Case had been filed by the accused No. 1 for which the Accused took

his statement of account from the Bank taking the officials of the Bank in collusion and used it for enhancement of maintenance. It was to cause loss to the Petitioner that such an act had been done by the accused persons and hence the Complaint.

It has been submitted on behalf of the Petitioner that after due investigation, Final Report was submitted but cognizance was taken on protest-cum-Complaint petition. Even conceding the allegations in the Complaint petition, no Criminal offence is made out, since there was no criminal intent in taking statement of record of a person for using it in a Court of law. Moreover, the maintenance matter has now been disposed off where there was no use of the statement of account.

On the other hand, the counsel for the Complainant submits that the Petitioner being his brother-in-law (Sala) had tried to cause financial loss to her by his act and, therefore, he should be put on trial. Moreover, the maintenance matter was disposed off subsequently, whereafter, an application under Section 127 Indian Penal Code was filed for enhancing the maintenance on the basis of statement of accounts.

Having considered the rival submissions which have been note above, I am unable to convince myself that any Criminal offence is made out in the facts mentioned in the Complaint.

Hence, the application is allowed and the entire Proceedings including the order dated 3.4.2012 passed by the Judicial Magistrate, Bhagalpur, in Complaint Case No. C-186 of 2011 as against all the accused persons, is hereby set aside.

(Anjana Prakash, J)

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