

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 21159 of 2014

Arising out of P.S. Case No. -79 Year- 1995 Thana -
MASAURHI District- PATNA

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Krishna Ballabh Prasad Son of Late Ram Sundar Prasad resident of
Mohalla : Kannu Lal Road, Mithapur, Police Station : Jakkanpur,
District : Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Prasad, Adv.

For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 02-07-2015

The Petitioner seeks quashing of the entire proceeding including the order of non-discharge dated 25.03.2014 passed by the Judicial Magistrate, 1st Class, Masaurhi, Patna in Masaurhi P.S. Case No. 79 of 1995.

The background facts of the case is that a First Information Report was instituted by the Branch Manager of the Bank stating therein that in an account in the Branch some transactions had taken place which were fictitious. The Petitioner is said to have passed the cheque. Allegation is that he should have acted vigilantly while passing the cheque.

It has been submitted that till date no person has complained of any loss or wrongful gain having been caused to anyone nor that there has been a forgery or

defalcation. Even conceding that the account was of a fake person in which some suspicious transactions had taken place the Petitioner who had passed the cheque can not be held responsible for such transactions.

On the other hand, the APP who goes through the case diary suggests that since the Petitioner had permitted such transactions he should be put on trial.

Having gone through the facts of the case, I am unable to satisfy myself that in the facts of the case stated any offence is made out. Hence, in my understanding, the trial would be a nullity which should be definitely avoided.

In the result, the entire proceeding as against the Petitioner including the order of non-discharge dated 25.03.2014 passed by the Judicial Magistrate, 1st Class, Masaurhi, Patna in Masaurhi P.S. Case No. 79 of 1995 is, hereby, set aside.

The application stands allowed.

Vikash/-

(Anjana Prakash, J.)

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