

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49957 of 2012

Arising Out of PS.Case No. -null Year- null Thana -null District- -

Indusind Bank (Formerly Known As Ashok Leyland Finance Company Ltd.)
through Rajesh Kumar Mishra son of Chandra Kumar Mishra, resident of Akodh,
P.S. Benipatty, District Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Sikandra Prasad son of Moti Singh, resident of Sitane, P.S. Katoriya, District Banka

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Shahi, Advocate

For the Opposite Party/s : Mr. Kr. Virendra Narayan, APP

For Opposite Party No.2 : Mr. B.N. Pd., Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 13-07-2015

The Petitioner seeks quashing of the order of cognizance dated 31.10.2007 passed by the court of Sri Randhir Kumar, Judicial Magistrate, 1st class, Banka in Katoriya P.S. case No.177 of 2006.

The case of the Informant is that he had purchased a trekker through Raj Auto Mobile, Deoghar and he had paid his loan on time. However, on the date of occurrence the accused persons came and took away his trekker as also its documents.

It has been submitted on behalf of the Petitioner that the Company had given loan to the Petitioner in which the Informant had defaulted. Thereafter the vehicle was seized on account of default. However later on the same was released in favour of the Informant by

the Court below. In such circumstances, when the act of the Petitioner was bonafide, he should not be proceeded against in Criminal Court.

On the other hand, the Counsel for the Informant submits that since the Petitioner acted in a highhanded manner, he should be put on trial.

Having gone through the facts of the case in the circumstances enumerated above, I am inclined to hold that the continuance of the present proceeding would be a gross abuse of the process of the Court and deserves to be set aside.

Hence, the application is allowed and the order of cognizance dated 31.10.2007 passed by the court of Sri Randhir Kumar, Judicial Magistrate, 1st class, Banka in Katoriya P.S. case No.177 of 2006 is hereby set aside.

However, this order shall not stand to the advantage of either of the parties since it has not decided their claims.

(Anjana Prakash, J)

Narendra/-

U		T	
---	--	---	--