

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8333 of 2013

Arising Out of PS.Case No. -23 Year- 2010 Thana -BELA District- -

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Sunil Kumar @ Sunil Kumar Das son of Sri Suresh Das, resident of village-
Pahetia, P.S- Hajipur Sadar, District- Vaishali.

.... Petitioner/s

Versus

1.The State of Bihar
2. Sujit Kumar son of Sri Ganesh Prasad, resident of Sonapatti, Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Nath Tiwary, Advocate

For the Opposite Party No.2. : Mr. Nirmal Kumar Sinha, Advocate

For the State : Mr. Sanjay Kumar Tiwary-1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-05-2015

Heard learned counsel for the petitioner, learned counsel for
the State as well as learned counsel for the informant.

2. In the present application filed under section 482 of the
Code of Criminal Procedure (hereinafter referred to as “the Code”),
the petitioner seeks quashing of the entire criminal prosecution
including the order dated 17.5.2012 passed by the learned Sub
Divisional Judicial Magistrate, Sitamarhi Sadar in G.R. No.224 of
2010 corresponding to Trial No.1992 of 2012 whereby the application
filed under section 239 of the Code for discharge has been rejected.
Further prayer of the petitioners is to quash the order dated 1.2.2013
passed by the *Ad hoc* Additional Sessions Judge-II, Sitamarhi in Cr.

Revision No.121 of 2012 whereby the revision preferred against the aforementioned order dated 17.5.2012 has been dismissed.

3. The petitioner has been made accused in Bela P.S. Case No.23 of 2010 registered for the offence punishable under section 406 of the Indian Penal Code. The prosecution story, in brief, is that the petitioner was working as salesman at the petrol pump of the informant. He had gone to deposit sale proceeds of the petrol pump amounting to Rs.1,75,500/- in the State Bank of India, Parihar Branch. Instead of depositing the money in the bank, he informed the informant of the case that the currency notes kept in the dicky of the motorcycle had fallen somewhere on the way to the bank. The informant claimed that the petitioner had misappropriated the money.

4. The police investigated the case and submitted final form on 8.8.2011 holding the case to be false and recommended action against the informant of the case under sections 182 and 211 of the Indian Penal Code. On receipt of the police report filed under section 173(2) of the Code, the learned Magistrate differed with the police report and took cognizance of the offence against the petitioner.

5. At the stage of framing of charge, the petitioner filed an application under section 239 of the Code for discharge. The learned Sub Divisional Judicial Magistrate, Sitamarhi, after taking into consideration the allegations made in the first information report, the



materials collected in course of investigation and the contents of the police report submitted under section 173 of the Code, rejected the application filed on behalf of the petitioner for discharge vide order dated 17.5.2012. The aforementioned order dated 17.5.2012 was challenged before the learned *Ad hoc* Additional Sessions Judge-II, Sitamarhi in Cr. Revision No.121 of 2012. After hearing the parties, the sessions court vide its order dated 1.2.2013 dismissed the revision application.

6. Being aggrieved by the aforementioned order dated 1.2.2013, the petitioner has filed the present application before this Court under section 482 of the Code.

7. Though the application has been filed under section 482 of the Code but, as a matter of fact, it is a second revision which is barred under section 397(3) of the Code. Even on merits, I find no error either in the order passed by the learned Sub Divisional Judicial Magistrate, Sitamarhi or in the order passed by the revisional court. The courts below have found sufficient materials against the petitioner to proceed with the matter.

8. It is well settled that at the stage of framing of charge a meticulous analysis of the evidence is not to be made. Even if there exists strong suspicion, the accused may be put on trial.

9. In that view of the matter, I find no merit in the present

application. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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