IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11290 of 2015

Arising Out of PS.Case No. -147 Year- 2014 Thana -BANIAPUR District-SARAN

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Indrajit De Son of Late Prasanta Kumar De Resident of 1A, Raja Subodh Mullick Square, 4th Floor, Kolkata 700013

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Anupa Nand Jha, Adv.
For the Opposite Party/s : Mr. Dashrath Mehta (APP)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 25-06-2015 Heard both sides.

The petitioner apprehends his arrest in Baniyapur P.S. Case no. 147/2014, registered for the offences punishable under Section 420 of the Indian Penal Code and 138 of N.I. Act.

The informant alleged that the petitioner had taken Rs. 46 lacs from him and in lieu thereof the petitioner issued a cheque bearing no. 624684 dt. 28.05.2014 but when the aforesaid cheque was presented to HDFC Bank, Jamal Road Branch, Patna, the same was returned informing that the cheque was dishonoured as the account stood closed.

Learned counsel for the petitioner submits that the petitioner and the nephew of the informant were partners in the

Company of Eden Realty Ventures Private Ltd. Company Case Nos. 373/2013 and 374/2013 were filed in the Calcutta High Court. In the aforesaid suit Sachchidanand Rai, the nephew of the informant was plaintiff and the informant was defendant no. 3. The petitioner was defendant no. 11. Both the suits were compromised.

It is submitted that the petitioner had never taken any loan from the informant. He used to leave the cheque in the office whenever he used to go out of country and the aforesaid cheque was misplaced, the informant took the cheque and filed this case. No notice was given to the petitioner for dishonouring of cheque.

It is further submitted that from bare perusal of the contents of the FIR it would appear that the Police of Saran has got no territorial jurisdiction to investigate the case. In para 7 and 8 of the FIR the informant has stated that he presented the cheque to HDFC Bank at Jamal Road Branch, Patna. The informant reiterated the same facts in his further statement but surprisingly enough the Police of Saran is investigating the case without having any cause of action in his jurisdiction.

On the other hand, Sri Suraj Narayan Prasad Sinha, learned Senior Counsel appearing on behalf of the informant has however conceded that no notice was issued for bouncing the cheque as prescribed under the Negotiable Instrument Act.

It is submitted that during course of investigation the informant gave materials to show that he presented the cheques at the HDFC Bank, Branch at Chapra, Saran and the cheques were sent for clearance to HDFC Bank, Jamal Raod, Patna. Therefore, the Police of Saran got jurisdiction.

It is submitted that the petitioner had not taken loan from the informant. According to the agreement assets and liabilities of the company were distributed among the shareholders and not the loan given to the petitioner. It appears on the face of it that the petitioner denied to have taken any loan and in view thereof issued any cheque rather the petitioner has stated that a cheque was missing from his office, and the informant misappropriated the missing cheque. The informant informed the police immediately after missing the cheque.

Considering the facts aforesaid, the petitioner above named in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Brajesh Kumar, Judicial Magistrate 1st

Class, Chapra in connection with Baniyapur P.S. Case No. 147/2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J.)

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