

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19751 of 2012

Arising Out of PS.Case No. -2044 Year- 2008 Thana -null District-
WESTCHAMPARAN(BETTIAH)

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1. Nagendra Prasad S/O Ramlakhan Prasad Resident Of Village- Chargaha, P.S-
Turkaulia, District- East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. Jangbahadur Ram S/O Late Saryug Ram Resident Of Village- Mirzapur, P.S-
Bettiah Muffasil, District- West Champaran, At Present Posted As Anusevak, Chief
Pashchim Nahar Pramandal Balmikinagar, West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate

For the Opposite Party/s : Mr. Shailendra Kr. Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 16-02-2015

The Petitioner seeks quashing of the order of cognizance dated 7.7.2010 passed by the court of Shri A.K. Pandey, Judicial Magistrate, Bettiah, West Champaran in Trial No.2491 of 2011 arising out of Complaint case No.2044C of 2008.

The case of the Complainant is that the Petitioner was posted as a Cashier in the Bank where the Complainant was posted as a Peon. About 5-7 days back the Petitioner asked for a loan of Rs.40,000/- from the Complainant for treatment of his wife, but when he refused he approached witness No.4. He himself also made arrangements of certain amount of money and paid it to the Petitioner. However, despite the agreement he did not repay and when he went to ask for the same he was abused.

It has been submitted on behalf of the Petitioner that on going through the Complaint petition the allegations appear palpably false since it is highly improbable that a person of senior rank would take money from his Peon. Moreover the witness No.4, who is alleged to have been the actual lender, did not file the present Complaint for some strange reason instead it is the Complainant, who had made additional arrangements of funds, has filed the same. The witness has not even been examined under Section 202 Cr.P.C.

Notices had been issued to the Opposite Party No.2 but none appears on his behalf despite service of notice.

Having gone through the Complaint petition, I would be inclined to agree with the Counsel for the Petitioner and hold that the present prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Hence the application is allowed and the proceeding including the order of cognizance dated 7.7.2010 passed by the court of Shri A.K. Pandey, Judicial Magistrate, Bettiah, West Champaran in Trial No.2491 of 2011 arising out of Complaint case No.2044C of 2008 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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