

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2902 of 2013

Arising Out of PS.Case No. -45 Year- 2012 Thana -BEN District- NALANDA
(BIHARSHARIFF)

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Manoj Kumar son of Late Narendra Kumar Resident Of Village- Manara, Police
Station- Noorsarai, District- Nalanda

.... Petitioner

Versus

1. The State Of Bihar
2. Umesh Paswan son of Late Rupan Paswan Resident Of Village- Maheshpur,
Post Office- Soure, Police Station- Ben, District- Nalanda

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Verma, Adv.

For the Opposite Party/s : Md Mushtaque Alam, APP

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CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL

ORAL JUDGMENT

Date: 21-05-2015

This application has been filed for quashing the order dated
12.10.2012 passed by the Chief Judicial Magistrate, Nalanda at
Biharsharif in Ben P. S. Case No. 45 of 2012 by which cognizance
has been taken against the accused including the petitioner for the
offence punishable under Sections 420, 467, 468, 120(B) of the Indian
Penal Code and 3(X) of SC/ST Act.

Heard learned counsel for the petitioner and the State.

The informant-opposite party no. 2 has not appeared even
after service of notice.

Allegation against the petitioner is to have issued rent
receipt in favour of the informant and his wife (Annexure-2) on the

basis of which loan was granted to the informant-opposite party no. 2 by the State Bank of India and later on, demand notice was issued by the Bank to the informant.

It is submitted that it appears from rent receipt (Annexure-2 series) that rent receipts were issued by Md. Tahir on 27.2.2011 with respect to land of Mauja Maheshpur and at that time the petitioner was Karmchari of Halka No. 1, Mari, Mauja Shahari and Aksara and Md. Tahir was the Karmchari of Mauja Maheshpur. The petitioner has been given charge of Mauja Maheshpur in pursuance to Letter No. 505 dated 7.9.2011 (Annexure-4) issued by Anchal Adhikari, Ben on 15.10.2011 (Annexure-5) because of ill-health of Md. Tahir.

It is further submitted that the petitioner has not committed any offence. There has been amicable settlement between both the parties and the informant has filed a petition of compromise dated 20.5.2012 in the Court of learned Chief Judicial Magistrate, Nalanda at Bihar Sharif (Annexures- 6 and 7), as such, the informant-opposite party no. 2 is not taking interest in this case even after service of notice.

It is also submitted that the case is of a civil nature and the parties have entered into the agreement and there is no chance of conviction of the petitioner, as such, the proceeding against the petitioner is not fit to be proceeded. In support of the contention, a

reference has been made to a decision of Hon'ble Supreme Court in the case of *Gold Quest International Private Limited vs. State of Tamil Nadu and Ors.* reported in *2014(4) PLJR 150 (SC)*.

Learned counsel for the State could not controvert the contention of the petitioner while opposing his prayer.

It appears that cognizance has also been taken against the petitioner. The petitioner has made out a case that he had no role in the issuance of loan to the informant. He had not issued any rent receipt (Annexure- 2 series) in favour of the informant-opposite party no. 2 and his wife. Thus, he had no role in the sanction of loan amount. The proceeding against the petitioner will be an abuse of the process of the Court.

Considering the facts and circumstances stated above, the order taking cognizance dated 12.10.2012 passed by learned Chief Judicial Magistrate, Nalanda at Biharsharif so far the petitioner is concerned, is quashed.

In the result, this application is allowed.

(Amaresh Kumar Lal, J)

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