

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12220 of 2013

Arising Out of PS.Case No. -1364 Year- 2010 Thana -BHABHU(KAIMUR) COMPLAIN C
District- -

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Munna Prajapati @ Kashinath Prajapati

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Arun Kr. Pandey (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 25-06-2015 **1.** Heard the learned counsel, Ms. Rekha Prasad, for the
petitioner. Heard the learned A.P.P. also.

2. The petitioner has filed this Cr. Misc. application under
Section 482 Cr.P.C. for quashing the order dated 15.10.2011
passed by Judicial Magistrate, Munger in Complaint Case
No.1364 of 2010 / T.R. No.2312 of 2011 whereby the Court below
after taking cognizance under Section 420 IPC issued summons to
the petitioner.

3. It appears that a complaint case was filed by the
complainant, Jogeshwar Sharma, alleging that the petitioner is
relation of the complainant. The petitioner induced the
complainant to pay Rs.1,60,000/- giving assurance that he will get
him employed in 'Abhilasha' NGO and he will get Rs.5000/- per



month. Subsequently, appointment letters were also handed over to the complainant who went to join the post but he was told that all the papers are forged and fabricated. The complainant then asked the petitioner who told him that in fact he has been appointed but there is some mistake by the official and then he disappeared. It is alleged that he has chited many other persons on this ground and has demanded money. On the basis of the evidences of the witnesses examined under Section 202 Cr.P.C., the Court below found that there are sufficient material and took cognizance under Section 420 IPC and issued summons.

4. The learned counsel for the petitioner submitted that the complainant has stated that he has taken loan of Rs.80,000/- from Chandrashekhar Singh but no proof has been filed in support of this fact. The complainant also stated that appointment letter was given to him but in support of the same, he has not filed the appointment letter. According to the learned counsel for the petitioner, the petitioner himself is a loan Mitra in the said NGO and is not getting any salary since long, therefore, letter has been issued to the concerned authorities and, therefore, there is no question of inducing the complainant or providing the complainant any job in the NGO arises. The complainant has filed in fact false complaint case by making false allegation against the petitioner.

Further Chandarshekhar has been examined as witness in the complaint case but in his evidence, he has not stated that he had advanced loan of Rs.80,000/- to the complainant which clearly indicate that giving of Rs.1,60,000/- to the petitioner is false. Likewise the other witnesses have not stated about advancement of loan and the other persons have not been examined as witness by the complainant in support of the fact that Rs.1,60,000/- was paid to the petitioner.

5. The learned A.P.P. objected the prayer and submitted that there is direct allegation against the petitioner.

6. Perused the complaint case. As narrated above, the allegation is that in the garb of providing job, the petitioner has taken Rs.1,60,000/- from the complainant.

7. The Hon'ble Supreme Court in the case of *Sanapareddy Maheedhar Seshagiri and Anr. v. State of A.P. 2007 (13) SCC 165* has held that **'the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and / or prosecution except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of any offence or that the allegations contained in the FIR do not constitute**



any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of the FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same.'

8. In the present case, the allegation against this petitioner is that he has not only taken amount from the present petitioner but he has also taken amount from other persons. Now, therefore on the basis of evidences, the trial Court is competent to see as to whether the complaint's case is false or not. While exercising jurisdiction under Section 482 Cr.P.C., this Court cannot meticulously examine the evidences and record a finding. All the submissions made by the learned counsels for the petitioner relates to the question of merit of the case which can only be seen at the time of trial and not at this stage.

9. The Hon'ble Supreme Court in the case of *C.B.I. Vs. K.M. Saran 2008 (4) SCC 471* has held that **'the High Court is not supposed to embargo upon the enquiry whether the allegation in FIR and the chargesheet were reliable or not and thereupon to render definite finding about truthfulness or veracity of allegation.'** In this case although it is not a case of FIR but the allegation is made in the complaint and on the basis of the allegation made in the complaint, it cannot be said that no offence is disclosed to have been committed by the petitioner. I, therefore, find no merit in the submission of the learned counsel for the petitioner and, therefore, this Cr. Misc. application is dismissed.

(Mungeshwar Sahoo, J)

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