

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16345 of 2013

Arising Out of PS.Case No. -601 Year- 2011 Thana -NAWADA District- NAWADA

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Sanjeet Kumar @ Sandeep Kumar Arya

.... 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. M.Dayal (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 23-07-2015

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

2. This criminal miscellaneous application has been filed under Section 482 Cr.P.C. for quashing the order dated 12.04.2012 passed by the learned C.J.M., Nawada in Nawada Town P.S. Case No.601 of 2011 whereby the court below has taken cognizance under section 379 and 411 I.P.C. against the petitioner.

3. The learned counsel for the petitioner submitted that the F.I.R. was lodged by informant, Yugal Singh alleging that he had withdrawn Rs.10,000/- from Central Bank and at that time the accused Jainendra Choudhary tried to commit theft but he was caught at the spot and he was handed over to the police.

4. During investigation the said accused Jainendra

Choudhary named Virendra Chandravanshi and Vijay Chandravanshi. In the confessional statement it has been stated that they had gone to stay in the hotel of this petitioner. Except this there is nothing on record to show any involvement of the petitioner in the commission of the offence.

5. From perusal of the case-diary also it appears that except that the accused persons had stayed in the hotel of this petitioner, there is nothing against this petitioner. Now, therefore, even if the allegation made in the F.I.R. and the confessional statements made by the accused, who was caught at the spot, is taken to be true then also no case is made out under any of the sections against the present petitioner what to speak of an offence under Section 379 and 411 I.P.C. The learned A.P.P. is unable to point out any such material against the petitioner in the case-diary.

6. It is well settled principles of law that if there is no material against the petitioner then the High Court should not hesitate to quash the prosecution against the person against whom there is no material at all.

7. In view of the above facts and circumstances of the case and that there is no material against the petitioner and the allegation levelled is against co-accused persons, one of them was caught at the spot and he named the other co-accused persons and

not the petitioner, the criminal miscellaneous application is allowed and the order dated 12.04.2012 passed by C.J.M., Nawada in Nawada Town P.S. Case No.601 of 2011 insofar as it relates to the petitioner is hereby quashed.

8. The criminal proceeding in the court below shall proceed against the other co-accused persons.

(Mungeshwar Sahoo, J)

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