

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51100 of 2012

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Binod Kumar Agrawal son of Sri Shantu Lal Agrawal, resident of Holding no.331A Block Tula Dungari, Police Station- Golmuri Gattam Jamshedpur, District- East Suinghbhum (Jharkhand).

.... Petitioner/s

Versus

1.The State of Bihar
2.Bijay Kumar son of Late Sita Ram Gupta (Tanti) R/Mohalla- Khoja Bazar, P.S. Kashim Bazar, P.O.& District-Munger.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ram Sewak Choudhary, Advocate.

For the Opposite Party/s : Mr. Jitendra Kumar Singh(App).

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

4 07-05-2015

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

1. The present petition has been filed for quashing the impugned order dated 2.5.2011 passed by Sri Raja Ram Santosh Kumar, Judicial Magistrate 1st Class, Munger in Protest cum-Complaint Case No.1088C/2009 whereby and whereunder the learned Magistrate has taken cognizance under Sections 467, 468 and 419 of the Indian Penal Code against the petitioner and others and has further issued summons against him.

2. According to the complaint, it appears that a power of Attorney in favour of the petitioner was executed by Ajay Kumar Gupta being the brother of the complainant, in which the complainant was also shown as one of the executants by some person who impersonated the complainant by affixing his signature and photograph on the power of attorney which was then



registered before the registering Authority. It appears that pursuant to the power of Attorney being executed, a sum of Rs.3,20,000/- was deposited in two Pass Books of M.I.S. Scheme in the Head Post Office, Munger, one of which stood in the joint names of Ajay Kumar Gupta and his son, Ashish Kumar, and the other in the joint names of Ajay Kumar Gupta and the complainant. It is alleged that the said brother of the complainant Ajay Kumar Gupta had been operating the Pass Book in the Head Post Office, Munger, on the basis of the aforesaid forged signature and fake photograph.

3. It is submitted on behalf of the petitioner that he has been falsely implicated in a criminal case whereas the transaction in question, if at all, relates to a dispute which is clearly of civil nature and that too, between the complainant and his brother, Ajay Kumar Gupta, with which he had little concern as he had simply received the power of Attorney from the two brothers. It is further submitted that earlier also a complaint case had been filed which was referred under Section 156 (iii) Cr.P.C. and came to be registered as Kashim Bazar P.S. Case No.58 of 2008 under Sections 120B, 419, 420, 467, 468 and 471 of the Indian Penal Code. After due investigation, final report was submitted on 26.5.2008 on the ground that a civil suit was going on in between the complainant and his brothers, and hence, no criminal case was made out. Immediately thereafter on 30.5.2008,

a protest petition was filed leading to the present complaint case.

5. From the above facts and circumstances, it is therefore evident that there is no accusation of misappropriation by the petitioner and, if at all, the same may be relatable to the complainant and his brother, Ajay Kumar Gupta. So far as the petitioner is concerned, he appears to have duly made payment into the account of the complainant's brother and discharged his responsibility and any grievance in the matter could only give rise to a civil dispute between the brothers. No offence was thus made out against the petitioner on the admitted facts of the case.

6. In the aforesaid circumstances, no fruitful purpose will be served in keeping the prosecution alive against the petitioner any longer. The impugned order dated 2.5.2011 passed by Sri Raja Ram Santosh Kumar, Judicial Magistrate, 1st Class, Munger in Protest -cum-Complaint Case No.1088C/2009 is hereby quashed only as against the petitioner and the present application is allowed.

(Vikash Jain, J)

AnilKrSinha/-

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