

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36417 of 2012

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Zaki Ansari @ Zaki Ahmad, S/O Late Rafi Ahmad Ansari, Resident of
Mohalla- Sohdi, P.S.- Sohsarai, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Chander Singh, the Chief Executive Officer, Regional Handloom
Weavers Co-Operative Union Ltd.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.(Dr.) Kislay
Mr. Rajesh Kumar
For the Opposite Party no.1 : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 09-04-2015 Heard learned counsel appearing on behalf of the
petitioner and learned Addl.P.P. appearing on behalf of the State
of Bihar.

The petitioner has filed the present application under
Section 482 Cr.P.C. for quashing the order dated 06.03.2010
passed in Bihar P.S. Case No.334 of 2008/G.R.No.2852 of 2008,
whereby the learned C.J.M., Nalanda at Biharsharif, in
disagreement with the police report, has taken cognizance of the
offences under Sections 406, 467, 468, 419 and 420 of the Indian
Penal Code and summons have been issued against the petitioner
for facing the trial. He has also prayed for quashing the order
dated 30.07.2012 (Annexure-1) passed in Cr.Rev.No.185 of 2010
by the learned 4th Additional Sessions Judge, Nalanda at
Biharsharif, whereby the aforesaid revision application filed by the
petitioner against the order taking cognizance has been rejected by
a reasoned and speaking order.

Indisputably, the FIR vide Annexure-3 was lodged by



the opposite party no.2 with allegations of commission of crimes of criminal breach of trust, cheating and forgery punishable under the I.P.C. The petitioner is specifically named in the aforesaid FIR vide Annexure-3 as an accused. The aforesaid criminal case was investigated by the police, but finally final report was submitted on 17.08.2009 (Annexure-4) and the petitioner was not sent up for trial. However, learned Magistrate examined the entire materials available on the record including the case diary and by disagreeing with the police report, he took cognizance of the offences by the impugned order dated 06.03.2010. The learned C.J.M. has recorded a finding of fact that in different paragraphs of the case diary there are sufficient materials for taking cognizance of the offences and for summoning the petitioner for facing his trial. The petitioner, being aggrieved by the aforesaid order dated 06.03.2010, filed Cr.Rev.No.185 of 2010 before the learned Sessions Judge, which was finally rejected by the impugned order dated 30.07.2012 passed by the learned 4th Additional Sessions Judge, Nalanda at Biharsharif.

Learned counsel appearing on behalf of the petitioner, by referring to the certain documents, which can be used for his defence, submits that the impugned orders passed by the learned courts below are liable to be quashed.

I am afraid for the purposes of taking cognizance the defence of an accused is not required to be looked into. Furthermore, for the purposes of taking cognizance only a prima facie case is required to be found out. As per the findings recorded by the learned C.J.M., there are sufficient materials for taking cognizance of the offence. The petitioner has challenged that order before the revisional court. The present application filed in the

garb of Section 482 Cr.P.C. is practically a 2nd revision application against the order taking cognizance, which cannot be entertained.

For the reasons recorded above, the present application has to fail and is, accordingly, dismissed.

(Birendra Prasad Verma, J)

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