

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6861 of 2016

Arising Out of PS.Case No. -1319 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

=====

Atul Kumar Srivastava, Son of Late Dayashanker Prasad, Resident of A-
97, PC Colony, Kankarbagh, Ps- Kankarbagh, District- Patna.

.... Petitioner

Versus

1 The State of Bihar.
2 Surya Kumar Sinha, Son of Late Parmanand Singh, Resident of Mohalla-
Biscomoun Colony, P.S. Alamganj, District- Patna.

.... Opposite Parties.

=====

Appearance :

For the Petitioner : Mr. Suresh Pd. Singh, Advocate.
For the Opposite Party : Mr. Rajendra Narayan, Sr. Advocate.
Mr. Dharmendra Kumar, Advocate.
For the State : Mr. P. K. Jha, Advocate.

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 25-07-2016 Heard learned counsel for the petitioner and learned

Senior counsel for the complainant-opposite party no. 2 as well as

learned counsel for the State.

The petitioner is apprehending his arrest in connection
with Complaint Case No. 1319 of 2014 registered under Sections
418 and 420/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that allegation
against the petitioner is that after taking money from the
complainant for starting business, he had not returned the money
which has occasioned the filing of the present litigation.

Learned Senior counsel for the opposite party no. 2



submits that there was a clear intention by the petitioner to cheat the complainant, who is having good relationship with opposite party no. 2. The petitioner had assured the complainant to return the money. The complainant in order to facilitate the business of the petitioner, lent money to him with an assurance from the petitioner that he will return the money so that the business of the petitioner is set into motion.

Learned Senior counsel for the opposite party no. 2 has brought on record certain documents with regard to the impugned transaction which show that the money has been deposited in the account of the petitioner.

Learned counsel for the petitioner does not deny the fact of receiving the money from the complainant, but submits that it is a case of partnership business between the parties for which the amount deposited in the account of the petitioner had been given by the O.P. No. 2 for starting business with assurance to return the money.

Learned counsel for the opposite party no. 2 however submits that on several occasions, the petitioner had taken money, but has not returned the same of partnership business.

Learned senior counsel for the opposite party no. 2 has filed a supplementary affidavit today bringing on record bank

account which shows that the amount deposited in the account of the petitioner.

Simultaneously, the petitioner has brought on record a plan duly signed by the Regional Development Officer, Ranchi, Jharkhand, from which it appears that plan was passed in the name of opposite party no. 2 himself. He further submits that the business was running in the name of opposite party no. 2 and the petitioner was one of the functionaries and assured to return the money from the profit of the said business. He also submits that, though nine flats have been constructed by M/s Daya Constructions & Developers, but when the opposite party no. 2 proceeded to sell the flats then this matter came to knowledge of the petitioner who demanded his share.

Learned Senior counsel for opposite party no. 2 has also drawn the attention of this Court to another document to show that it was an admitted fact that petitioner had taken loan from the opposite party no. 2.

Considering the rival submissions and the materials brought on record, it appears that the present case is merely a partnership dispute between the parties which can well be resolved by means of civil litigation.

Taking into consideration the facts and circumstances of

the case, the role assigned to the petitioner by the opposite party no. 2, which is not quite clear, let the above named petitioner in the event of his arrest/surrender within a period of four weeks shall be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Patna City, in connection with Complaint Case No. 1319 of 2014, subject to condition as laid down under Section 438(2) of Cr.P.C.

(Anjana Mishra, J)

m.pal

U		T	
---	--	---	--