

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1385 of 2015

Arising Out of PS.Case No. -1286 Year- 2012 Thana -KHAGARIA

COMPALINT CASE District- KHAGARIA

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1. Raj Kumar Singh, son of late Moti Singh, Resident of
Mohalla Dan Nagar, Ward No. 03, P.S. & District - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Shyam Sundar Singh, S/o Chandradeo Singh, Resident of
Village - Ram Chandra, P.S. - Muffasil, District - Khagaria.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh, Adv.

Mr. Pawan Kumar Singh, adv.

For the State : Mr. Khurshid Anwar (App)

For the O.P. No. 2 : Mr. Jagdish Pd. Bhagat, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

- 3 08-12-2016 The present application, under Section 482 of the Code of Criminal Procedure, has been filed seeking quashing of the order, dated 02.09.2014, passed by the learned Sub-Divisional Judicial Magistrate, Khagaria, in Complaint Case No. 1286C of 2012, whereby, he has taken cognizance of the offence punishable under Sections 120B, 323, 420 and 504 of the Indian Penal Code.



The petitioner also seeks quashing of the entire proceeding arising out of said Complaint Case No. 1286C of 2012.

I have learned counsel for the petitioner, learned counsel representing opposite party No. 2 and learned Additional Public Prosecutor for the State.

Learned counsel for the petitioner has submitted that even if the allegations made in the complaint petition are treated to be true, no criminal offence is made out. It has been submitted that the allegations made in the complaint petition may disclose some civil dispute between the parties, but ingredients of the offence under various sections of the Indian Penal Code, as mentioned in the complaint petition, are completely absent.

Learned counsel representing opposite party No. 2 has opposed the prayer and submitted that the allegations made in the complaint petition suggest that the petitioner dupe opposite party No. 2 and cheated him of a sum of Rs. 2,54,000/-.

This is not in dispute that the petitioner and opposite party No. 2 are closely related with each other (*Samdhi*). The petitioner runs a shop under Public Distribution System (PDS). Allegedly, for business requirements, the petitioner had taken from opposite party



No. 2 a total sum of Rs. 2,54,000/- as loan. Thereafter, the petitioner refused to re-pay the said loan amount despite all attempts made by opposite party No. 2.

Even if the allegations made in the complaint petition are treated to be true, the case of the prosecution is that the complainant had given to the petitioner certain amount as loan, which he failed to re-pay on demand. This does not constitute any criminal offence, though it may have civil liability.

I, accordingly, quash the order, taking cognizance, dated 02.09.2014, and the criminal proceeding arising out of Complaint Case No. 1286C of 2012.

This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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