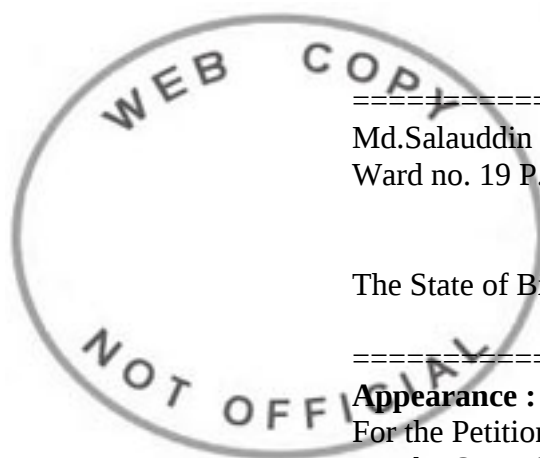




IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43131 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- SAHARSA

Md.Salauddin S/o of Md. Usman resident of Mohalla Ganjala Pratap Nagar Chowk
Ward no. 19 P.S. Saharsa Dist. Saharsa.

.... .. Petitioner/s

Versus

The State of Bihar & Anr

.... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 28-03-2016

The petitioners seek quashing of the order of cognizance dated 18.08.2010 passed by the Judicial Magistrate 1st Class, Saharsa in Complaint Case No. 1939 of 2009.

The case of the complainant is that her husband who was working in middle-east had sent Rs. 3, 32,000/- during the period of 2002-06 in the account of the accused person who are her in-laws but they misappropriated the money. It was only when in 2009 her husband returned home he started to make demand for refund but instead he was assaulted.

It has been submitted on behalf of the petitioner that the petitioner is the brother-in-law (Devar) of the complainant and there is no documentary proof to show that there was any money sent to his account for the upkeep of the complainant. Evidently the allegation is

thus merely oral in nature. Also it is impossible to believe that for four years when money was remitted to the account of the petitioner which was not disbursed to her she would make no demands and it is only belatedly such a complaint is made.

Counsel for the complainant submits that since the petitioner kept on delaying the repayment, the complainant filed the complaint only after the final refusal.

Having considered that there is no documentary evidence of misappropriation of money which would make the trial a nullity, the application is allowed and the order of cognizance dated 18.08.2010 passed by the Judicial Magistrate 1st Class, Saharsa in Complaint Case No. 1939 of 2009, is hereby set aside.

(Anjana Prakash, J)

Prakash/-

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