

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33932 of 2016

Arising Out of PS.Case No. -519 Year- 2015 Thana -ARA NAGAR District- BHOJPUR

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Baban Singh, Son of late Kapildev Singh, resident of Mohalla-Kasyapnagar
New Police Police Line, P. S. Ara, Nawada, Dist.-Bhojpur (Ara)

.... Petitioner/s

Versus

1. The State of Bihar

2. Kamata Prasad Singh Son of late Laxmi Prasad Singh

3. Bhanu Prasad Singh son of Kamata Prasad Singh

4. Sumit Kumar son of Bhanu Prasad Singh

All the resident of Mohalla Mahajan Toli No.1 Badi Mathiya, Mahadeva
Road Ara, P.S. Ara Town, Dist- Bhojpur (Ara) Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha

For the Opposite Party/s : Mr. Sri Surendra Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

2 20-12-2016

Heard learned counsel for the parties.

The Opposite parties No. 2 to 4 have been granted
anticipatory bail by an order dated 08.06.2016 passed by learned
Sessions Judge, Bhojpur at Ara.

The present application has been filed seeking
cancellation of the bail so granted to them. As per the case of the
prosecution, the Opposite parties had taken a sum of Rs.
5,75,000/- from the informant for construction of shop and
leasing it out to the informant. They are said to have assured the
petitioner, who is the informant that if failed to return the money,
they would be paying back the said amount with Bank rate of
interest. Allegedly they did not return the money and when the



informant demanded for repayment, they assaulted him.

The Opposite parties, it appears took a plea before the Court below, inter alia, that they had received only 1 lacs and not the said sum of Rs. 5,75,000/-.

Considering the nature of dispute between the petitioner and the Opposite parties No. 2 to 4, the Court below granted them privilege of anticipatory bail by the said order dated 08.06.2016.

Learned counsel appearing on behalf of the petitioner has submitted that learned Court was misled by the Opposite parties that they had taken only 1 lacs whereas fact is that they have taken a sum of Rs. 5,75,000/-, which is evident from the agreement, which has been brought on record by way of Annexure-2 to this application.

From the order passed by the learned Sessions Judge, I find that the informant had appeared and pressed his case that total sum of Rs. 5, 75,000/- was in fact taken by the Opposite parties. I also notice that the learned Sessions Judge has also taken into account the fact that the petitioner has filed a money suit for recovery of the said amount and dispute in question appeared to be of civil in nature.

The petitioner, thereafter applied for cancellation of bail before the learned Sessions Judge, Ara by filing an application



giving rise to Cr. Misc. No. 16 of 2016, which came to be dismissed by an order dated 08.06.2016.

Learned counsel for the petitioner has vehemently argued that the stand taken by the Opposite parties before the Court below that they have taken sum of Rs. 1 lacs only amounts to misrepresentation of facts. The said contention has no merit at all. Whether the Opposite parties No. 2 to 4 had taken any amount or not is a matter still to be investigated or adjudicated upon by a Court of competent jurisdiction. This application for cancellation appears to have been filed only to harass the Opposite parties No. 2 to 4. No case of cancellation of bail is made out.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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