

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34324 of 2013

Arising Out of PS.Case No. -258 Year- 2007 Thana -PIRO District- BHOJPUR

=====

1. Shivanand Paswan @ Hridaya Paswan, son of Late Agamlal Paswan, resident Of Mohalla Sidheshwar Nagar, Police Station Patliputra, District Patna.

.... Petitioner

Versus

1. The State Of Bihar.

2. Nami Sah, son of Shivbachan Sah, resident Of Village Vaisadih, Police Station Piro, District Bhojpur.

.... Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Shankar Kumar Thakur

For the Opposite Parties: Mr. J. Upadhyay, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

6 18-03-2016

Heard learned Counsel for the petitioner and learned Additional Public Prosecutor for the State.

In substance, the petitioner seeks quashing of prosecution, arising out of Piro Police Station Case No. 258 of 2007, which was registered disclosing offences under Sections 420, 406, 467, 468 and 471 read with Section 120B of the Indian Penal Code.

The petitioner, at the relevant point of time, was working as a Field Officer in Hasan Bazar branch of State Bank of India. A First Information Report came to be instituted with an allegation that one Mahtab Khan, a co-accused, had approached the informant and assured him of



arranging loan from the State Bank of India. Acting upon such assurance, the informant put his signature and marked his thumb impression on certain plain stamp papers, as suggested by said Mahtab Khan. The said Mahtab Khan is said to have photographed the informant with his camera. It is alleged that the informant did not receive any loan amount thereafter, but a notice, from the State Bank of India, Hasan Bazar Branch, asking him to deposit an amount of Rs. 29,199/- against the loan taken by him. Thereafter only, allegedly, the informant learnt that with the connivance of the Branch Manager of the Bank, Karim Ansari, said Mahtab Khan had withdrawn loan amount to the tune of Rs. 24,000/- and with these allegation, the informant lodged Piro Police Station Case No. 258 of 2007, for the offences punishable under Sections 420, 406, 467, 468, 471 read with Section 120B of the Indian Penal Code.

Learned Counsel appearing on behalf of the petitioner has submitted that no useful purpose will be served in allowing the prosecution to continue in view of the subsequent developments. He submits that in course of investigation, name of the petitioner also surfaced. Till date, however, no police report has been submitted against the petitioner. He, secondly, submits that said Mahtab Khan was put on trial in the Court of the learned Chief Judicial



Magistrate, Ara. By a judgment and order, dated 01.03.2013, passed by learned Judicial Magistrate, 1st Class, Ara, said Mahtab Khan has been acquitted of all the charges on the basis that the prosecution miserably failed to prove the charges leveled against him. Learned Counsel for the petitioner submits that as is evident from the First Information Report, the main allegation of commission of offence was against the said Mahtab Khan and Branch Manager, Karim Ansari, was implicated on the allegation of being a part of conspiracy for commission of the offence. Referring to the said judgment, he submits that the informant himself entered into a compromise with the said accused, Mahtab Khan, voluntarily, which fact was supported by other prosecution witnesses.

In the background of these facts, it is contended that it will be an abuse of the process of the Court if the prosecution against the petitioner is allowed to continue and no purpose would be served if the proceedings are allowed to remain pending, particularly, as the informant himself has entered into a compromise with the main accused, Mahtab Khan.

A bare reading of Section 482 of the Code of Criminal Procedure, 1973, shows that the inherent power of the High Court can be exercised mainly for three purposes,

which are, (i) to give effect to any order of the Code of Criminal Procedure; (ii) to prevent abuse of the process of the Court; and (iii) otherwise to secure the ends of justice.

I find substance in the submissions made on behalf of the petitioner that after having the main accused, Mahtab Khan been acquitted by the trial Court, as he entered into a compromise with the informant, no useful purpose would be served if the present proceeding against the petitioner is allowed to continue.

In my opinion, therefore, to secure the ends of justice, the prosecution arising out of the said Piro Police Station Case No. 258 of 2007 needs to be quashed and is accordingly quashed.

This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---