

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 19652 of 2013

Arising Out of PS.Case No. -852 Year- 2012 Thana -MUZFFARPUR COMPLAINT CASE District- MUZAFFARPUR

Binod Kumar Singh S/O Late Kailash Bihari Singh R/O Mohalla- Nazirpur, Near Gaytri Mandir, Akharaghat, P.S.- Ahiyapur, P.O.- Sheikhpur, District- Muzaffarpur, At Present Posted As Assistant Station Master, Jubba Sahni Station, Indian Railways, Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Virender Kishore S/O Late Ramnandan Lal R/O Village- Basua, P.O.- Basua, P.S.- Aurai, District- Muzaffarpur, Present Address - Quarter No.- G 105/D, First Floor, Railway Colony, Mohalla- Imali Chatti, P.S.- Kajimuhammadpur, P.O.+District- Muzaffarpur

.... Opposite Parties

with

Criminal Miscellaneous No. 16155 of 2015

Arising Out of PS.Case No. -852 Year- 2012 Thana -MUZFFARPUR COMPLAINT CASE District- MUZAFFARPUR

Chetan Kumar Sinha son of Late Balram Prasad Sinha, R/o Mohalla- Jagdishpur, Lane No.- 2, Mithanpura, P.S.- Mithanpura, P.O.- Ramna, District- Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar
2. Virender Kishore, Son of Late Ramnandan Lal, Resident of village- Basua, P.O.- Basua, P.S.- Aurai, District- Muzaffarpur, Present Address- Quarter No.- G 105/D, First Floor, Railway Colony, Mohalla- Imali Chatti, P.S.- Kajimuhammadpur, P.O. + District- Muzaffarpur

.... Opposite Parties

Appearance :

(In Cr.Misc. No.19652 of 2013)

For the Petitioner/s : Mr. Jagjit Roshan

For the Opposite Party/s : Mr. Sanjay Kr.Sharma(App)
Mr. Hari Kishore Thakur

(In Cr.Misc. No.16155 of 2015)

For the Petitioner/s : Mr. Jagjit Roshan

For the Opposite Party/s : Mr. Vinod Shankar Modi(App)

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 29-02-2016

In both the petitions, petitioners have prayed for quashing of order dated 02-06-2012 passed by the learned Chief Judicial Magistrate, Muzaffarpur in Complaint Case No. 852 of 2012 (T.R. No. 1031 of 2013), whereby the learned Magistrate has taken cognizance of offence under Sections 420, 406, 120(B) of the Indian Penal Code and as such, both the petitions were taken up together and are being disposed of by this common order.

Heard Sri Jagjit Roshan, learned counsel for the petitioner(s), learned Addl. Public Prosecutor as well as Sri Hari Kishore Thakur, learned counsel for the complainant.

At the very outset, learned counsel for the petitioner(s), by way of referring to **Annexure – 10** to the Cr. Misc. No. 16155 of 2015, submits that during the pendency of the present case, dispute in between the complainant and one of the co-accused Lakhan Lal Singh was settled outside the court and as such, by order dated 24-07-2014 passed in Cr. Misc. No. 586 of 2014, a Bench of this Court quashed the order of cognizance so far as accused Lakhan Lal Singh @ Raman Ji is concerned. In respect of another co-accused namely Chetan Kumar Sinha, the learned counsel for the petitioner(s) has referred to **Annexure – 6** in Cr. Misc. No. 16155 of 2015 and submits that dispute with petitioner i.e. Chetan Kumar Sinha (in Cr. Misc. No. 16155 of 2015) and

complainant has already been settled and as such, compromise petition was filed before the court below, vide **Annexure – 6** to the present petition.

Learned counsel for the petitioner(s) has also placed reliance on **Annexure – 8** to the petition i.e. Cr. Misc. No. 16155 of 2015 and submits that while the petitioner (i.e. Chetan Kumar Sinha) was in custody, he had already paid entire amount of Rupees Fifteen Lakh to the complainant, which was received by the complainant and receipt has been shown on order dated 01-08-2013 in Complaint Case No. 852 of 2012 before the court below i.e. Annexure – 8 to the present petition. He submits that since the matter is pending before this Court, the learned court below did not pass final order regarding compromise.

In Cr. Misc. No. 19652 of 2013, it has been argued by learned counsel for the petitioner that once the complainant has settled the dispute with main two accused persons i.e. Chetan Kumar Sinha and Lakhan Lal Singh, allowing the proceeding to further proceed against the petitioner(s) will simply amount to abuse of the process of the Court. He submits that in entire complaint petition, only allegation has been made against the petitioner Binod Kumar Singh that he was witness to an occurrence, in which, two accused namely Chetan Kumar Sinha



and Lakhan Lal Singh had actively participated. He submits that as per complaint, fraudulently accused Chetan Kumar Sinha had obtained Rupees Fifteen lakh from the complainant and thereafter, the accused no. 2 Lakhan Lal Singh had issued four cheques in favour of the complainant without availability of any fund in the account of the accused Lakhan Lal Singh. He submits that once case in respect of main two accused persons has come to an end, there is no reason to allow the proceeding to further proceed against the petitioner Binod Kumar Singh.

Sri Hari Kishore Thakur, learned counsel for the complainant though has opposed the prayer of petitioner(s), but he was not in a position to dispute the fact, which has been brought on record.

In view of facts and circumstances, the Court is of the opinion that allowing the proceeding, in respect of the petitioner of Cr. Misc. No. 19652 of 2013 after compromise arrived in between the complainant and other two main accused, will certainly amount to abuse of the process of the Court and as such, the order of cognizance in respect of petitioner namely Binod Kumar Singh is hereby set aside.

In view of **Annexure – 6** to the petition (in Cr. Misc. No. 16155 of 2015) i.e. compromise petition in between the

complainant and co-accused Chetan Kumar Sinha, the Court considers that it would be appropriate to quash the order of cognizance and all subsequent proceedings.

Accordingly, both the petitions are allowed.

Order of cognizance dated 02-06-2012 passed in Complaint Case No. 852 of 2012 (T.R. No. 1031 of 2013) in respect of both the petitioners is, hereby, set aside.

Since prosecution has already come to an end, both the petitioners are discharged from the liability of their bail-bond.

(Rakesh Kumar, J.)

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