

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17826 of 2014

Arising Out of PS.Case No. -100 Year- 2012 Thana -COMPLAINT CASE District- JAMUI

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1. Manoj Kumar Son of Sri Sheojee Rajak, Assistant Manager, Union Bank of India Branch Jamui at Present Branch Munger, U.B.I. Ghazipur (U.P), P.S- Birno, Distt- Ghazipur (U.P)
 2. Nishant Kumar Son of Sri Deepak Kumar, Branch Manager, Union Bank of India, Jamui at present accountant Patna Main

.... Petitioner/s

Versus

1. The State Of Bihar
2. Suresh Singh son of Late Ramnath Singh resident of Village- Kenuhat, P.S- Laxmipur, Distt- Jamui.

.... Opposite Party/s

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Appearance :

For the Petitioners : Mr. Prakash Mahto, Adv.
For the State : Mr. Nawal Kishore Prasad, APP.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-10-2017

1. Heard learned counsel for the petitioners and the State.
2. This application has been filed for quashing the order dated 01-12-2012 passed by learned Judicial Magistrate-Ist Class, Jamui in Complaint Case No. 100 C of 2012 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioner for the offence under Sections-323, 341, 384/504 of the IPC.
3. Counsel for the petitioners has submitted that complainant has taken loan from the bank for purchase of the tractor. The loan was sanctioned and the tractor in question, as mentioned by



the complainant was delivered to the complainant. The complainant did not make payment of the installment amount. Thereafter, the bank took steps for recovery of the loan of Rs. 2,95,000/- on 02-11-2004. It has been submitted that earlier his tractor was seized on 26-02-2007 by the then, Bank Manager and opposite party No. 2 had filed Consumer Case No. 47 of 2007 on 26-11-2007 before the District Redressal Consumer Forum, Jamui against Union Bank of India, Jamui. Later on, an application of withdrawal dated 24-07-2008 was filed on behalf of the complainant. The petitioner has enclosed the order of Consumer Forum dated 05-05-2009 and application for withdrawal dated 24-04-2008 annexed as Annexure-2 series and 3 to this petition. After dismissal of the said Consumer Case, the tractor was released to the complainant. The complainant did not make payment of the amount of loan. Thereafter, the recovery agent of the concerned bank went for recovery of the said loan from the complainant according to bank rules and regulations and found that the tractor of the complainant was lying. They seized the tractor of the complainant and brought by tochan on 19-01-2012 with the help of local police. Seizure list was prepared and the same was signed by Sub Inspector of police and in absence of Bank Manager (petitioner No. 1) during seizure, petitioner No. 2 namely Manoj Kumar being Assistant Bank Manager-cum-Field Officer of the said bank, signed



on the seizure list.

4. The complainant has annexed copy of seizure list dated 19-01-2012 (Annexure-4). After seizure of the aforesaid truck by the bank authority, the complainant has filed the instant complaint against the petitioners maliciously on 23-01-2012 merely to harass the petitioners who are the Branch Manager and Assistant Branch Manager-cum-Filed Officer of the aforesaid bank.

5. In the complainant petition, the complainant has concealed all these facts. The complainant has levelled allegation that on the date of occurrence i.e. 19-01-2012, these petitioners assaulted the complainant and forcibly took his tractor loaded with food grains. But from Annexure-4 filed by the petitioner, it will appear that the aforesaid tractor of the complainant was seized by the bank authority. The tractor was not in running condition and was brought by tochan.

6. Therefore, this court finds that the instant complaint has been filed by the complainant just to harass the petitioners as they have taken steps for recovery of loan, from the complainant which was advanced in the year, 2004 for purchase of tractor and against non-payment of loan, the tractor was seized by the bank authority on 19-01-2012. The complainant has filed malicious prosecution merely to wreak vengeance with mala fide intention for personal grudge.

7. Therefore, the impugned order dated 01-12-2012



passed by learned Judicial Magistrate-Ist Class, Jamui in Complaint Case No. 100 C of 2012 is not in accordance with law.

8. Accordingly, the impugned order dated 01-12-2012 along with entire criminal proceeding against the petitioners is quashed.

9. This Cr. Misc. Application is allowed.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	31-10-2017
Transmission Date	31-10-2017

