IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17452 of 2014

Arising Out of PS.Case No. -97 Year- 2012 Thana -SISWAN District- SIWAN

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1. Manoj Kumar Sinha, Son of Late Harinandan Prasad Sinha, Resident of Flat No. 303, Lord Krishna Apartment, Shaubhagya Sharma Patna, Rukunpura, Bailey Road, Patna- 800014 and at present posted as Sr. Branch Manager (CPC In Charge) Bank of India Credit Processing Cell, C/O Khagaul Branch, Khagaul.

.... Petitioner/s

Versus

1. The State of Bihar
2. Pravin Kumar Rai, Son of Surendra Roy, Village- Mubarakpur, P.S.- Siswan, District- Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 21-08-2017

Heard learned counsel for the petitioner and learned counsel appearing for opposite party No. 2.

This petition has been filed to quash the order dated 22-08-2013 passed by learned Chief Judicial Magistrate, Siwan in Siswan (Chainpur) P.S. Case No. 97 of 2012 whereby, the learned Magistrate has found prima facie case against the petitioner for the offence under Sections-419, 420, 467, 120(B)/34 of the Indian Penal Code.

It has been submitted on behalf of the petitioner that he is the Branch Manager. He made inquiry after getting the complaint that an amount of Rs. 3,40,000/- has been illegally withdrawn from the account of opposite party No. 2. The show cause was called for from the Staff Officer namely Mr. Amarjeet Kumar, Cashier Shri Ajit Kumar Srivastava and the Daftari, Sri C. Narayan Singh, who submitted their reply, which has been annexed as Annexures-8A, B and C. Thereafter, he took guidelines from the Higher authority and lodged the case against the informant vide Annexure-10.

The instant case has been filed by opposite party No. 2 as counter blast after lodging of FIR against him by this petitioner.

From perusal of Annexures-8(A)(B)(C) and the letter of Senior Branch Manager dated 12-07-2012 (Annexure-9) it becomes clear that an amount of Rs. 3,40,000/- was withdrawn by cheque No. 22398. The aforesaid cheque was got misplaced from the bank. It is mentioned in Annexure-9 that as per computer record dated 14-03-2012, the said cheque No. 22398 was cancelled by Amarjeet Kumar (Staff Officer) and, verified by Sri Pramod Kumar (Staff officer) and paid by cashier Ajit Kumar Srivastava. But there is no mention in Annexure-9 that aforesaid amount of Rs. 340,000/- was in fact paid to this opposite party No. 2.

From the FIR (Annexure-1) lodged by the petitioner, this court finds that none of the officer of the bank as mentioned in Annexure-9, has been made accused by the petitioner in this case. The petitioner has tried to make allegation of misplacing the cheque No.

22398 from the bank on opposite party No. 2, whereas aforesaid cheque was the property of the bank and it was responsibility of the bank to maintain cheque No. 22398 after payment of the money. The police after investigation, has found allegation true against the petitioner. The Supervising Authority in para-36 of the case diary has directed to file charge sheet against the petitioner. Thereafter, the police has submitted charge sheet against this petitioner for the offence under Sections-419, 420, 467, 468, 120B, 201 of the Indian Penal Code.

The learned Magistrate after perusing the allegation made in the written report and materials available in the case diary, took cognizance against the petitioner by the impugned order.

Therefore, this court does not find any illegality in the impugned order passed by the learned Magistrate. Accordingly, this Cr. Misc. Application is dismissed.

The court below is directed to proceed in the case in accordance with law.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	31-8-2017
Transmission Date	31-8-2017