

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20203 of 2014

Arising Out of PS. Case No.-3450 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Nameshwar Singh Nirala S/o Late Shiv Nandan Singh
 2. Girja Devi W/o Nameshwar Singh Nirala
 3. Praveen Kumar Singh
 4. Anil Kumar Singh
 5. Sunil Kumar Singh Sl. No. 3 to 5 are S/o Nameshwar Singh Nirala All Resident of Mohalla Mahatma Gandhi Nagar, P.S. Agam Kuan, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Daya Kumari W/o Rama Kant Sah Resident of Mohalla Mahatma Gandhi Nagar, Madhuri Kunj, House No. 2H/36, P.S. Agam Kuan, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Nand Kishore Prasad Sinha, Advocate
For the Opposite Party/s :	Mr. Mustaque Alam(APP)
For Opp. Party No. 2 :	Mr. Ajay Kumar Thakur, Sr. Advocate, Ms. Babita Kumari, Advocate Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 03-11-2017

Heard learned counsel for the petitioners, State and Mr. Ajay Kumar Thakur for the Opposite Party No. 2.

Counsel for the petitioners submits that from the tenor of the complaint, it appears that specific allegation is levelled against one Praveen Kumar Singh, petitioner no. 3 and against rest of the petitioners before this Court, there is no specific allegation of committing any kind of mischief.



Mr. Ajay Kumar Thakur, learned counsel for the opposite party No. 2 submits that in a matter like the instant every one is involved in commission of crime and therefore, the court should not exercise jurisdiction under Section 482 Cr.P.C. He submits that the petitioners have defrauded the opposite party No. 2 and as such they do not deserve interference under Section 482 Cr.P.C.

Attention of the Court was drawn to the complaint petition, particularly, paras 6 and 7 from which it appears that the complainant has focused on the conduct of Praveen Kumar Singh, petitioner No. 3, who played mischief in receiving money and defrauding the complainant. The money was received through Bank Draft and RTGS and as such the present case, so far as Praveen Kumar Singh is concerned, prima facie, material is available on the record to proceed against him.

Considering the submission of the petitioners and the complainant, the Court is of the view that there is allegation against Praveen Kumar Singh. The other persons named in the complaint case, against whom the Court has proceeded, does not fall in the category of offender against whom criminal action is justified.

Mr. Thakur is absolutely correct in his submission that in a case where the intention of the party is to deceive from its very



inception, then apart from civil proceeding, criminal case is also maintainable but in the totality of the fact situation, the Court is of the view that from reading of the complaint petition, the claim of the opposite Party No. 2 against petitioner Nos. 1,2,4 and 5, appears to be civil in nature and as such the present complaint case so far as the petitioner Nos. 1,2,4 and 5 deserves to be interfered with and accordingly, the order taking cognizance dated 22.6.2013 passed in complaint Case No. 3450(C) of 2012 against petitioner Nos. 1,2,4 and 5 are hereby quashed, and the petition stands allowed to the extent the order taking cognizance relates to petitioner Nos. 1,2,4 and 5.

The order dated 22.6.2013, so far as Petitioner No. 3, Praveen Kumar Singh is concerned, does not merit any consideration. Accordingly, this petition against him is rejected.

With the aforesaid, the petition stands partly allowed and disposed of to the extent indicated above.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.11.2017
Transmission Date	07.11.2017

