

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43086 of 2017

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1. Sanjay Rai, Son of Nathuni Rai, Resident of Village- Baniya Chhapra,
P.S.- Gopalpur, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Angad Kunwar, Adv

For the Opposite Party/s : Mr. Suresh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 13-09-2017 Heard learned counsel for the petitioner as well as
learned APP along with learned counsel for the informant.

Petitioner who happens to be paid Manager of
Sapaha Gopalpur PACS, has prayed for modification of order
dated 16.08.2017. From perusal of the aforesaid order it is evident
that an initial stage, it was argued on behalf of the petitioner that
Rs. 4,42,440/- was deposited by the informant and after maturity
Rs. 8,84,883/- was to be received by the informant which he could
not, whereupon, the instant case has been registered. It happens to
be available in the account of the complainant and so, it was
directed that relevant document be placed before learned lower
court in order to substantiate such plea that the aforesaid amount
happens to be deposited in the account of informant.

Now a new plea has been taken. Ground has been
changed. For the present, a new plea has been raised that as he



happens to be Paid Manager, he has nothing to do with the affairs of the PACS Management. It has also been submitted that whenever there happens to be cash collection by way of deposit, the same is being deposited at District Co-operative Bank and withdrawal is permissible only by the counter signature. One of the signatories happens to be Chairman of the PACS. So, without having his signature, the aforesaid amount could not be withdrawn and so, deposit in the account of informant could not be made. Furthermore, it has also been submitted that the Chairman be directed to put counter signature over the cheque in order to facilitate withdrawal of aforesaid amount.

Learned APP as well as learned counsel for the informant opposed the prayer.

While appreciating the prayer made under Section 439 CrPC, the Court in extraordinary situation will exercise its inherent power under Section 482 of the CrPC but ordinarily, such exercise should be forbidden. The prayer having been made on behalf of the petitioner compels to exercise such power by way of directing the Chairman to counter sign which, in the present facts and circumstance would not be. If the petitioner so desires, may file Criminal Writ whereunder proper identification of the amount having been deposited at the concerned Co-operative Bank at the



end of concerned PACS would be ascertained and in likewise manner, whether it could be directed to transfer the amount relating to the informant. So far modification of the order is concerned, from the prayer of the petitioner itself is clear that it smells a foul play whereupon, would not be entertainable and is, accordingly, rejected.

(Aditya Kumar Trivedi, J)

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