

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22512 of 2014

Arising Out of PS.Case No. -1144 Year- 2013 Thana -BUXAR COMPLAINT CASE District-
BUXAR

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Arvind Ojha S/o Late Dev Raj Ojha R/o Village Kurmuri, P.S. Sigarhatta, District
Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mithlesh Kumar Singh S/o Late Jagdamba Singh R/o Village Raghu Nathpur,
P.S. Brahmpur, District Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Adv.
For the Opposite Party/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 11-10-2017

Heard the learned counsel for the petitioner.

2. The short facts of the case are that the Opposite Party

No.2, who has failed to appear before this Court despite valid service of notice, had filed a complaint Case No. 1144(C) of 2013 against the petitioner herein on 01.10.2013, inter alia, alleging therein that he had applied for loan for running dairy before Raghunathpur Branch of Madhya Bihar Gramin Bank on 08.11.2012. It is stated in the said complaint that the preliminary formality had been completed and thereafter, when his application was in final stage, then the Branch Manager of the said Bank was transferred and the petitioner herein had joined on that post and when the complainant had met the



petitioner, after his joining, regarding the loan/ subsidy, he had asked for furnishing 'No Dues Certificate' which was also made available by the Opposite Party No.2 on 19.06.2013, however, subsequently the petitioner herein refused to disburse the loan/ subsidy on one pretext or other and then demanded illegal gratification as also misbehaved with the Opposite Party No.2.

3. The learned trial court by an order dated 30.01.2014 has taken cognizance for the offence under Section 504 of the Indian Penal Code.

4. The aforesaid order dated 30.01.2014 is under challenge before this Court in the present quashing petition.

5. The learned counsel for the petitioner submits that the petitioner herein had joined as Branch Manager of Raghunathpur Branch of Madhya Bihar Gramin Bank on 20.06.2013 and the contents of the complaint would show that the allegation in the complaint petition is prior to the joining of the petitioner herein. The learned counsel for the petitioner has next contended that Annexure-7 to the quashing petition, issued by the Chairman of the Madhya Bihar Gramin Bank on 10.08.2013, would show that the subsidies were to be paid to those applicants who had filed application on or before 31.05.2013. It is further contended that the entire complaint lodged by the Opposite Party No.2 is mala fide and as far as Section 504 of the



Indian Penal Code is concerned, the contents of the complaint do not satisfy the ingredients which are necessary for prima facie making out a case under Section 504 of the Indian Penal Code, hence the order taking cognizance is liable to be quashed.

6. After having heard the learned counsel for the petitioner, I have perused the record and find that the allegations levelled in the complaint petition date-back to a period prior to joining of the petitioner as Branch Manager of Raghunathpur Branch of Madhya Bihar Gramin Bank. Moreover, the ingredients required to constitute an offence under Section 504 of the Indian Penal Code are also missing inasmuch as there is nothing to show that the petitioner has insulted the Opposite Party No.2 so as to provoke any person/ the Opposite Party No.2, knowing it likely to cause him to break the public peace.

7. In any view of the matter, entire complaint smacks of mala fide on account of the fact that the loan was not granted to the Opposite Party no.2 by the petitioner herein. In any view of the matter, there appears to be no mens rea in the complaint filed by the opposite party No.2 and remedy, if any, lies before an appropriate court of civil jurisdiction.

8. For the reasons stated above, the order dated 30.01.2014 passed in Complaint Case No. 1144(C) of 2013 by the



learned C.J.M., Buxar is hereby set aside and the Complaint Case No. 1144(C) of 2013 is quashed.

9. The petition is allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17-10-2017
Transmission Date	17-10-2017

