

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53272 of 2013

Arising Out of PS.Case No. -354 Year- 2012 Thana -PATNA COMPLAINT CASE District- PATNA

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Bipin Bihari Singh, Son of Late Ramashish Singh, Resident of Village+P.O.-
Sarbahada, P.S.-Khijarsarai, District-Gaya, Circle Officer, Pandarak.

.... Petitioner

Versus

1. The State of Bihar
2. Arun Paswan, Son of Late Lakhan Paswan Resident of Village-Raili, P.S.-
Pandarak, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Arun Kumar, Advocate
For the O. P. No.2	:	Mr. Manoj Kumar Dubey, Advocate
For the State	:	Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 01-12-2017

Heard learned counsel for the petitioner, learned counsel for O.P. No.2 and also learned A.P.P. appearing on behalf of State. Learned counsel for the petitioner and learned counsel appearing on behalf of O.P. No.2 are ready for disposal of this case at the admission stage.

2. This application has been filed under Section 482 of the Code of Criminal Procedure against the order dated 13.12.2012 passed in Compliant Case No. 354 (C) of 2012, whereunder the Court of Addl. Chief Judicial Magistrate, Barh, Patna summoned the seven accused named in the complaint petition, including the petitioner, on inquiry, under Section 204 Cr.P.C. finding prima facie case for the offence under Sections 420, 467, 468 and 120-B of the Indian Penal Code.

3. The facts leading to this application are that O.P.



No.2 Arun Paswan filed the complaint Case No. 354 (C) of 2012 to the effect that in the evening of 18.07.2011, when he came at his house then his wife Asho Devi and daughter-in-law Lalita Devi told that Bipin Yadav, L.I.C. Agent had come at about 1.00 P.M. and took their signature and thumb impression on plain papers and collected identity cards and photograph for providing the benefit under the Indira Awas Scheme. After five months rumour spread in the village that forgery has been committed in the Punjab National Bank, Raili Branch by taking the loan in the name of several men and women. Thereafter, O.P. No.2 came at the Bank then come to know that in the name of his wife Asho Devi daughter-in-law Lalita Devi and witness Jagdish Sao loan of Rs. One Lakh have been taken on the basis of forged Land Possession Certificates issued by the Circle Officer, Pandarak while there is no land in the name of his wife Asho Devi, daughter-in-law Lalita Devi and witness Jagdish Sao. The O.P. No.2 made request to Manager, Punjab National Bank, Raili Branch to furnish the loan accounts number but he did not disclose the loan accounts number, but furnish the photocopies of the Land Possession Certificate. Then O.P. No.2 came to know that LPCs were issued in respect to Khesra No. 106, 20, 437, 58 area 19 Katha 5 dhur of Khata No. 28, 37 and 44 in the name of his wife Asho Devi, in respect to Khesra No. 68, 73, 206 area 5 Bihga, 5 dhur of Khata No. 312, 415 in the name of his daughter-in-law Lalita Devi, and in respect to Khesra No. 11, 12, 224 area 5 Bigha 17 katha of Khata No. 836, 247 & 71 in the name of witness Jagdish Sao. Thereafter, O.P. No.2 went to house of Bipin Yadav and made compliant then Bipin Yadav made request about non raising hue and cry saying that he will deposit the loan amount, but he did not



deposit the loan amount. Thereafter, O.P. No.2 gave an application to District Magistrate, Patna, S.P. Rural, Patna and other higher Police officials, but no action was taken.

4. Learned counsel appearing on behalf of petitioner submits that at the time of alleged occurrence the petitioner was posted as Circle Officer, Pandarak and on the basis of report of Revenue Karamchari and Circle Inspector, the petitioner issued the LPC in course of discharge of his official duty according to practice prevailing in the Circle Office and he had no intention in any manner to cheat the complainant/O.P. No.2 and others. Further submission is that petitioner being the Gazetted Officer was posted as Circle Officer at Circle Office, Pandarak and he could not be removed from his office without sanction of the State Government. As such summoning of the accused petitioner, on enquiry, under Section 204 Cr.P.C. through the impugned order for the offence under Section 420, 467, 468 and 120(B) of I.P.C. without prior sanction of the State Government is illegal.

5. Learned counsel appearing on behalf of O.P. No.2 submits that there is no illegality in the impugned order, but fairly conceded that petitioner was the Circle Officer at the time of the occurrence and he could not be removed without prior sanction of the State Government to his office.

6. Admittedly, the petitioner was Circle Officer, Pandarak, at the time of occurrence and he could not be removed to his office without sanction of the State Government and offence as alleged to be committed by the petitioner in course of discharge of his official duty. As such without previous sanction of the State Government as required



under Section 197 (1) Cr.P.C, summoning of accused-petitioner on enquiry, under Section 204 of Cr.P.C. for offence under Sections 420, 467, 468 and 120-B of Indian Penal Code appears to be illegal.

7. In the result, the impugned order dated 13.12.2012 passed in Complaint Case No. 354 (C) of 2012 by the Court of Addl. Chief Judicial Magistrate, Barh, Patna summoning the accused named in the Complaint Petition, including the petitioner, on enquiry, under Section 204 Cr.P.C. finding prima facie case under Sections 420, 467, 468 and 120-B of Indian Penal Code quashed in respect to petitioner only. Accordingly this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.12.2017
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