

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48018 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- GOPALGANJ

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1. Vakil Singh S/O Late Ram Subhag Singh Resident Of Village- Semari, P.S.- Mashrakh, Distt.- Saran.
 2. Shravan Kumar Singh S/O Vakil Singh Resident Of Village- Semari, P.S.- Mashrakh, Distt.- Saran.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Awadh Kishore Singh S/O Ramjas Singh Resident Of Village- Nawada, P.S.- Barauli, Distt.- Gopalganj.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suresh Prasad Singh No.1, Advocate
For the Opposite Party/s : Mr. Uday Pratap Singh, APP
Mr. Arbind Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 09-01-2017

Heard learned counsel for the petitioners, learned Additional Public Prosecutor for the State and learned counsel for Opposite Party No.2.

This is an application under Section 482 Cr.P.C. praying therein to quash the order dated 18.04.2013 passed in Complaint Case No.C-1721 of 2011/TR No.3016 of 2013 by Mr. A.V. D. Dubey, learned Judicial Magistrate, 1st Class, Gopalganj.

Petitioner No.1 Vakil Singh is already dead as submitted by learned counsel for the petitioners. Hence, the application against him stands abated.

By the impugned order process has been issued against



the accused persons including the petitioner Shravan Kumar Singh under Section 204 Cr.P.C. calling upon to face trial for the offences under Sections 406 and 417 of the Indian Penal Code in Complaint Case No.C-1721 of 2011.

The petitioner has challenged the aforesaid order on the ground that on perusal of the complaint petition and the material collected during enquiry under Section 202 Cr.P.C. no offence is made out against the petitioner.

Opposite Party No.2, Awadh Kishore Singh, brought the aforesaid Complaint Case No. 1721 of 2011 against five persons including petitioner Shrawan Kumar Singh alleging therein that complainant was known to accused Satyendra Singh and on persuasion of accused Satyendra Singh other accused persons including the petitioners came to the house of the complainant and persuaded for installation of a U-net Tower.

The parties agreed and accordingly the agreement was entered into on 20.11.2009 in between the complainant and U-net. Accused P.K. Pandey, the Director of U-net, signed the agreement on behalf of the U-net.

Allegation is that instead of installation of a bigger tower only a small tower was installed and the accused persons promised to install the bigger one later on. The Company issued a cheque of



Rs.2,000/- in favour of the complainant as rent of the aforesaid tower. The cheque was drawn by accused Anil Kumar Donga and the same was brought and handed over to the complainant by the petitioner Shravan Kumar Singh. On production the cheque was bounced.

Submission of the petitioner is that only allegation against the petitioner is that he had handed over the cheque of the Company to the complainant and in fact acted merely as a messenger of the Company. He was not responsible for any insufficiency of the fund, which resulted in dishonour of the cheque.

Learned counsel for the complainant-opposite party submits that in fact the petitioner was also present at the time of negotiation. Hence, he cannot evade his criminal liability.

After hearing the parties and considering the materials available on the record, in my view no offence as alleged is disclosed against the petitioner. Hence, the criminal proceeding against the petitioner is an abuse of the process of the Court.

Accordingly, the impugned order against the petitioner is set aside and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	16.01.2017
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