

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 49397 of 2013

Arising Out of PS.Case No. -352 Year- 2011 Thana -ROHTAS COMPLAINT CASE District- SASARAM (ROHTAS)

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1. Ashutosh Mishra @ Chhote Mishra, Son of Madan Mishra, Resident of Village - Morauna, P.O. Durgadih, P.S. - Bikramganj, District - Rohtas
 2. Madan Mishra, Son of Late Bali Ram Mishra, Resident of Village - Morauna, P.O. Durgadih, P.S. - Bikramganj, District - Rohtas

.... Petitioners

Versus

1. The State of Bihar
2. Kundan Babu, Son of Late Surendra Pandey, Resident of Village - Karahagar, P.S. - Karahagar, District - Rohtas

.... Opposite Parties

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Appearance :

For the Petitioners	: Mr. Arvind Kumar, Advocate
For the O.P. No. 2	: Mr. Radha Mohan Pandey, Advocate
For the State	: Mr. Shyam Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-01-2017

Heard the learned counsel for the petitioners and the learned counsel for the opposite parties.

This is an application for quashing the order dated 06.12.2012 passed in Complaint Case No. 352 of 2011 whereby the learned court below has issued process against the petitioners and others to face trial for offence under Section 417 of the Indian Penal Code.

Opposite party no. 2 Kundan Babu brought the aforesaid complaint case against the petitioners and co-accused Vijay Kumar alleging therein that petitioner no. 1 Ashutosh Mishra @ Chhote Mishra who is son of petitioner no. 2 Madan Mishra are relations and the neighbor of the complainant. On the persuasion rather



inducement of the petitioners the complainant and his guardian agreed to pay Rs.5,00,000/- (five lacs) to ensure admission in Maulana Azad National Institute of Technology, Bhopal. Money was paid in the bank account of co-accused Vijay Kumar and some of the payment was made to the petitioners. However, admission was not ensured, hence, the complainant found himself cheated. After inquiry under Section 202 Cr.P.C., the learned court below has issued summons to face trial by the impugned order, against the petitioners also.

Submission of the petitioners is that the bare perusal of the complaint petition would reveal that the complainant was himself interested in getting backdoor entry in the technical institute, hence, he cannot knock the door of the court of law for redressal of his grievance against commission of an illegal act by the complainant himself. His next contention is that the money was allegedly paid to the co-accused Vijay Kumar and there is no evidence of payment to the petitioners, hence, criminal prosecution of the petitioners is an abuse of the process of the court.

On the other hand, learned counsel for the complainant-opposite party no. 2 submits that, in fact, the petitioners induced the complainant for illegal gratification to ensure admission in technical college and the complainant was a meritorious and aspirant student, hence, just for the sake of his career, he accepted the allurements of



the petitioners. His further submission is that the ingredients of offence of cheating are apparently attracted against the petitioners also.

Now the point for consideration is whether an unscrupulous litigant can knock the door of the court of law for redressal of his grievance of illegal act committed by him.

In my view the answer would be emphatically no. No one can get protection of law for redressal of the grievance of his illegal act which was committed, though by inducement of others. Only inducement of others cannot be a ground for committing illegal act. The complainant, allegedly, advanced the money to ensure backdoor entry in the technical institute, hence, he cannot get protection of law. The complainant cannot bring a suit for recovery of the aforesaid amount, therefore, he cannot be allowed to bring a criminal litigation for redressal of his grievance.

For the aforesaid reason, the continuation of the proceeding before the court below against the petitioners would amount to abuse of the process of the court, hence, the impugned order is set aside and this application stands allowed.

(Birendra Kumar, J)

Kundan

AFR/NAFR	A.F.R.
CAV DATE	
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