

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35954 of 2014

Arising Out of PS.Case No. -457 Year- 2012 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Chitragupta Kumar Son of Late Arjun Ram, Resident of village- Kharwanian, P.S.-
Nawanagar, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jai Mangal Singh son of late Amir Singh, resident of village –Chikni, PS-
Raxaul (Hariaya), District-East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : M/s Rajesh Kr. Mishra and Sourendra Pandey, Advs.

For the Opposite Party/s : Mr. Rana Randhir Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-08-2017

Heard Mr. Rajesh Kr. Mishra and Mr. Sourendra Pandey,
learned counsel appearing on behalf of the petitioner as well as Mr.
Rana Randhir Singh, learned A.P.P. for the State.

2. This criminal miscellaneous application under section
482 of the Criminal Procedure Code, has been filed for quashing the
order dated 19th May 2014 passed by learned Sub-Divisional Judicial
Magistrate, Raxaul at Motihari in connection with Complaint Case
No. 457 of 2012, whereby and whereunder learned Sub-Divisional
Judicial Magistrate, finding *prima facie* case for the offence under
section 420 of the Indian Penal Code, summoned the petitioner and
other co-accused.

3. Opposite party no. 2 filed a complaint case, vide



Complaint Case No. 293 of 2008, on the file of learned Sub-Divisional Judicial Magistrate, Raxaul at Motihari alleging *inter alia* that this petitioner and other co-accused have committed fraud in payment of compensation to the flood affected farmers, whose paddy crops were destroyed. The petitioner and other authorities committed fraud in the documents and paid less compensation to the beneficiaries against the terms of the Scheme of the Government. The matter was reported to the District Magistrate, who had ordered to conduct an enquiry, but all the accused persons in collusion to each other, suppressed the matter, thereby cheated the complainant and defalcated the Government money. The copy of complaint petition was sent to the concerned Police station for registration and investigation of the case under section 156 (3) of the Criminal Procedure Code. The matter was enquired and Police submitted final report as lack of evidence, vide Police Report dated 06.01.2012. The matter proceeded on protest petition of opposite party no. 2, which was filed on 23.10.2008. In course of enquiry, the complainant and his witnesses supported the allegation whereupon the learned Court below took cognizance against the petitioner and other co-accused.

4. It is submitted that the petitioner was Block Development Officer on the relevant date. The complainant has lodged this case with false and frivolous allegation. The petitioner had distributed the relief amount amongst the beneficiaries as per



guidelines of the Secretary, Agricultural Department, Bihar, contained in letter no. 3134 dated 31.08.2007, whereby the Revenue Staff, Jan Sewak and Panchayat Secretary were authorised to conduct survey of damaged crops with respect to one acre of land of this petitioner. The Office prepared a cheque for an amount of Rs. 8,000/-, vide Cheque no. 219321 dated 26.12.2007, as compensation for the damaged crops. The demand of the petitioner was loss for the damaged crops of five acres land and so, this petitioner did not accept the said cheque and the said amount was deposited in the Treasury. Learned counsel in support of the case, has filed photocopy of cheque and report, which is Annexure-4 to this application. It has further been submitted that the wife of complainant had contested an election, which she had lost and the petitioner in collusion with other co-accused and elected candidate, has fraudulently assessed and made payment against actual loss caused to the beneficiaries.

5. The learned Additional Public Prosecutor on the other hand opposed the submission.

6. On going through the FIR as well as documents produced on behalf of the petitioner, I find that the solitary allegation against this petitioner is that he did not conduct the survey and made less payment than the actual loss caused to the victim. The complainant has claimed damage of crops over five acres of land but as per survey, the damage was assessed only for one acre land and for



that a cheque for an amount of Rs. 8,000/- was prepared and tendered on the petitioner in the year 2007, which was refused and the money was deposited in the Treasury.

7. The annexure-4 to this application shows that as many as four beneficiaries refused to take their cheques for different reasons. It is not the case of the complainant that the amounts, which were allotted for distribution amongst the beneficiaries, have been defalcated by this petitioner or any of the officials connected with the assessment, distribution work. The matter was enquired by Police who submitted final form as lack of evidence. I also do not find any ingredients of cheating on the part of this petitioner. In such circumstances, the criminal prosecution of this petitioner would amount an abuse of process of Court.

8. In view of the aforesaid facts, this criminal application is allowed and the order dated 19.05.2014 taking cognizance under section 420 of the Indian Penal Code against the petitioner is quashed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

