

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18594 of 2014

Arising out of P.S. Case No.563 Year 2012 Thana SITAMARHI COMPLAINT CASE District
SITAMARHI

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Pawan Kumar S/o Bharat Prasad R/o Village Bhandari, P.S. Belsand, District
Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar.
2. Ravi Ranjan Kumar S/o Govind Prasad Mahto R/o Village Kothi Block, Badi
Bazar, Dumra, Ward No. 2, P.S. Dumra, District Sitamarhi.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Dinesh Jha, Advocate
For the State	:	Ms. Rita Verma, APP
For O.P. No.2	:	Mr. Sankat Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the petitioner, learned
Additional Public Prosecutor for the State as well as learned counsel
appearing on behalf of opposite party no.2.

2. The petitioner seeks quashing of the cognizance order
dated 04.12.2013, passed by Judicial Magistrate, 1st Class, Sitamarhi
in Complaint Case No.C.1/563/12 whereby the learned Magistrate has
taken cognizance of the offence under Section 379 of the Indian Penal
Code and issued summon against the petitioner to stand trial in this
case.

3. A brief fact, as alleged in the complaint petition filed
by Ravi Ranjan Kumar, opposite party no.2, is that he was working in
Progress Wintrade Pvt. Ltd. In Sitamarhi branch. On 28.01.2012 his



office was transferred from one location to another at Sitamarhi and Rakesh Guha, the commission agent, was present there. In his presence the office was being transferred and Pawan Kumar was also an associate of Rakesh Guha who too was present and Pawan Kumar was working in front office of the Branch and key of the *almirah* was in possession of both persons, the complainant as well as Pawan Kumar. It is alleged that Rs.2,00,000/- was withdrawn from bank and was kept in the *almirah* for the purpose of redemption to the depositors and after locking the *almirah* the complainant left the key with Pawan Kumar. Thereafter locking the office he came to outside. Pawan Kumar on pretext of getting his mobile again entered in the office and within a minute returned back. Next day on 30.03.2012 when he opened the *almirah* found Rs.2,65,112/- missing. He informed the Head Office thereafter Rakesh Guha came and coming in conspiracy with Pawan Kumar lodged police case against him.

4. Learned counsel for the petitioner submits that the complainant was the Cashier and was the custodian of the cash and he misappropriated the money. The Head Office directed Rakesh Guha for making enquiry then he came to Sitamarhi and did the enquiry and found that money was withdrawn by Ravi Ranjan Kumar and he had kept the money under his custody and on the next day money was found missing. The key of the *almirah* was with Ravi Ranjan Kumar,



so Rakesh Guha lodged a police case vide Sitamarhi P.S. Case No.231 of 2012 on 07.04.2012 under Section 406 of the Indian Penal Code. Case was investigated by the police and police finding the case true submitted charge sheet and cognizance of the offence has been taken by the court and the matter is pending for trial. Later on, on 13.04.2012 after a week of the lodging of the police case, this false complaint case was filed only in order to put pressure or wreck personal vengeance. It is also submitted that to the court question the complainant himself admitted that one key of the *almirah* and money was kept with him and one was with Rakesh Guha and Rakesh Guha was at Kolkata.

5. Learned counsel appearing on behalf of opposite party no.2 submits that the court has taken cognizance of the offence after perusing the records, the statement of the complainant and statement of one enquiry witness.

6. Having considered rival submissions of the parties and on perusal of the records, the Court finds that the present complaint appears vexatious in nature as a week prior to lodging of the present complaint case Rakesh Guha authorized by the Company after making preliminary enquiry had instituted a police case vide Sitamarhi P.S. Case No.231 of 2012 for criminal breach of trust for the same amount i.e. Rs.2,65,112/- of which the complainant himself was the custodian



and after lapse of a week this complaint was filed. The police conducted the investigation in the case lodged by Rakesh Guha on behalf of the company and submitted charge sheet against Ravi Ranjan Kumar, the complainant of the present case for misappropriation of the same amount, therefore, continuation of the criminal proceeding in the complaint case as the same is filed to wreck personal vengeance against the persons who has initiated a criminal proceeding against the complainant for the same matter appears revengeful in nature, so the criminal proceeding with respect to the petitioner inclusive the cognizance order dated 04.12.2013 passed in Complaint Case No.C.1/563/12, pending in the court of Judicial Magistrate, 1st Class, Sitamarhi is hereby quashed.

7. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.10.2017
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