

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23585 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BHOJPUR

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Madan Prasad Sinha, son of Late Piyar Chaudhary, resident of villae- Dalippur,
P.S. Dhangain, Distrit-Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Shyam Nandan Singh, son of Shital Singh of village- Sheorya, P.S. Jagdishpur,
District- Bhojpur (Ara)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Opposite Party/s : Mr. Uma Nath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-05-2017

This Criminal Miscellaneous Application has been filed for quashing of the order dated 25.5.2011 passed in Complaint Case No. 193 (C) of 2011 (S.L. No. 5472/2011) by Sri Om Prakash, Judicial Magistrate 1st Class, Ara, by which, after holding enquiry under Section 202 Cr.P.C. the learned Magistrate has found prima facie case against this petitioner for the offence under Section 420 of the Indian Penal Code.

Heard learned counsel for the petitioner and learned counsel for the Opposite Party No. 2.

Counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case because of business rivalry. The complainant is Stamp Vendor and the



petitioner is Deed Writer. He has further submitted that the complainant has not enclosed the original diary to show that the petitioner has purchased the stamp worth Rs. 84,000/- from the complainant.

Learned counsel for the Opposite Party No. 2 has submitted that he has filed Photostat copy of the Stamp Sale Register and also sent a legal notice dated 6.12.2010 to the petitioner making demand of his due amount of the stamp, thereafter, the complaint petition was filed. Opposite Party No. 2 has also submitted that during enquiry the complainant was examined on S.A. and statements of three other witnesses were also recorded and thereafter the learned Magistrate found prima facie case against this petitioner.

Learned counsel for the petitioner submits that the complainant has filed the Xerox copy of the Register of sale of the Stamp which is not genuine Register.

Lower Court record has been received in this case. From perusal of the S.A. of the complainant and the statements of the three witnesses recorded during the enquiry under Section 202 Cr.P.C. it appears that they have supported the case of the complainant. The complainant has alleged that he has sold stamp worth Rs. 84,000/- to the petitioner on credit and the petitioner did not return the money. The S.A. of the complainant and statements of



the three witnesses support the aforesaid allegation during enquiry under Section 202 Cr.P.C. The learned Magistrate is only required to see the prima facie case at the time of enquiry on the basis of allegations made in the complaint petition and the statement of the witnesses including the S.A. of the complainant recorded during enquiry. Therefore, this Court does not find any illegality in the impugned order dated 25.5.2011 passed in Complaint Case No. 193 (C) of 2011 (S.L. No. 5472/2011) by Sri Om Prakash, Judicial Magistrate 1st Class, Ara.

Accordingly, this Criminal Miscellaneous Application is disposed of with liberty to the petitioner to raise all the points as raised in this petition at the appropriate stage of framing of charge in the Court below which shall be disposed of in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.05.2017
Transmission Date	

