

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12622 of 2014

Arising Out of P.S.Case No. -651 Year- 2006 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

=====

Birendra Kumar S/O Late Raghubir Prasad Resident Of Village + P.O-
Barichhariari, P.S- Tharthari, District- Patna.

.... Petitioner

Versus

1. The State Of Bihar
2. Krishna Kumar Mistri S/O Late Asheshar Mistri Resident of Village-
Hariharpur Ayodhya, P .S- Tethana, District- Begusarai.

.... Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Shambhu Nath Choubey, Advocate
For the Opposite Parties : Mr. Ram Anurag Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 19-07-2017

Heard.

2. This is an application under Section 482 of the Cr.P.C. to quash the order dated 17.08.2006 passed by Judicial Magistrate, Ist Class, Begusarai in Complainant Case No.65(C) of 2006 whereunder cognizance against the petitioner for the offence under Sections 420 and 418 of the IPC.

3. The petitioner no.2 filed a complaint case on the file of CJM, Begusarai alleging inter-alia that the petitioner and other co-accuseds came at his house on 02.09.2003 and told him to mortgage some property for getting loan for purchasing tractor and tube-well for which there is subsidy Rs.30,000/-. The loan was to be sanctioned for the period of five years. The petitioner and other co-accused persons took documents of landed property standing in the name of his mother and also the signature of complainant and his mother and agreed to give him a tractor within one month. The staff of M/S Shanker Machinery came and



took Rs.500/- for opening an account. The accused persons gave a tractor to the complainant but without any paper. The agency called the complainant at their shop for giving paper and when the complainant went at the shop of accused persons, they demanded Rs.43,940/-. Then he contacted Bank Manager who said the complainant that the matter is not known to him as the loan was sanctioned by previous Manager. The complainant could not run the tractor for want of paper and so he could not deposit any instalment of loan. The complainant further came to know that the accused persons in collusion with each other withdrew an amount of Rs.3,33,600/- and thereby cheated him and committed breach of trust.

4. Learned counsel for the petitioner submits that the petitioner was a Manager on the relevant date and loan was sanctioned after being satisfied with the papers of the complainant. The complainant was not satisfied with the services of tractor agency and so he filed a case before the District Consumer Forum, Begusarai vide case no.50 of 2007. The District Forum after hearing both sides dismissed the complaint as it was found that on account of laches of complainant, the said tractor was not registered. The loan amount was sanctioned to the full knowledge of the complainant and the tractor was delivered against the said loan amount and so no offence under the aforesaid section is made out and impugned order is fit to be quashed.

5. Learned APP opposed the submission.

6. On perusal of complaint petition, annexures as well as material on record, I find that the petitioner was the Branch Manager of UCO Bank where the complainant had applied for loan after mortgaging his landed property. The order of District Consumer Forum, Begusarai shows that the petitioner and dealer of tractor filed their respective show cause and after going through the papers and hearing both sides District Consumer Forum, Begusarai dismissed the case of the



complainant. From the annexures available on record, I find that the complainant had received tractor with full satisfaction from its dealer. The dispute between the parties appears to be a civil dispute and at best this would be a case of deficiency of service of tractor dealer. The petitioner being the Branch Manager of the bank was concerned with the sanctioning of loan on his satisfaction. The criminal prosecution of this petitioner in such circumstance appears an abuse of the process of the Court.

7. In view of the above discussions, the impugned order dated 17.08.2006 taking cognizance with respect to his petitioner is quashed and this criminal miscellaneous application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	25.07.2017
Transmission Date	25.07.2017

