

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34330 of 2014

Arising Out of P.S.Case No. -34 Year- 2010 Thana -EAST COLONY District- MUNGER

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Uday Kumar Yadav S/o Late Pratap Yadav Resident of Daulatpur, P.S. Jamalpur,
District Munger.

.... Petitioner

Versus

1. The State of Bihar
2. Sagar Mandal, son of Late Gang Mandal, resident of Javitra More, Jamalpur,
P.S. & P.S. Jamalpur, District-Munger.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Prashant Sinha, Advocate
: Mr.Amit Kumar, Advocate
For the Opposite Parties : Mr. Nirmal Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-07-2017

This application under section 482 of the Cr.P.C. has been filed to quash the order dated 08.04.2013 passed by learned CJM, Munger in East Colony P.S.Case No.34 of 2010 whereunder the learned Magistrate finding prima-facie case for the offence under Sections 467, 468, 471, 420, 504, 506/34 of the IPC summoned the petitioner.

2. Heard and perused the record.

3. It has been submitted that the above case was registered on the written report of Opposite Party No.2 wherein he alleged that altogether six persons named in the FIR persuaded the complainant to deposit money in their private bank which gives



double amount within a period of three years. Out of the six FIR named accused, two accused, namely, Shiv Narayan Tanti and Nishant Kumar Kundan filed discharge petition before the Judicial Magistrate which was refused on 08.10.2012. The said two accused filed Cr.Revision No.06 of 2013 before Sessions Judge, Munger but the Sessions Judge after hearing affirmed the order of Judicial Magistrate. Thereafter they filed quashing application bearing Cr.Misc.No.5706 of 2014 before this High Court which after hearing was allowed on 01.09.2014 considering the fact that the main accused Deo Narayan Tanti was directed to deposit an amount of Rs.1,50,000/- in Cr.Misc.No.447 of 2012. The order dated 20.12.2013 passed in Cr.Revision No.06 of 2013 as well as order dated 08.10.2012 passed by Judicial Magistrate were set aside. Another co-accused Bibeka Nand Ram also filed quashing application bearing Cr.Misc.No.8867 of 2014 which was also allowed on 16.09.2014 by one of the coordinate Bench of this Court. The case of this petitioner stands on better footing as he had no concern with the private bank of the FIR named accused persons. The petitioner is neither named in the FIR nor there is material against him and so the impugned order taking cognizance with respect to this petitioner is fit to be quashed. The learned APP opposed the submissions.

4. On perusal of the FIR and case diary on record, I find



that this case was initially registered against five persons with specific allegation. This petitioner was not named in the FIR. Out of the aforesaid five accused cognizance order with respect to few accused namely, Shiv Narayan Tanti, Nishant Kumar Kundan and Deo Narayan Tanti have been quashed as per order passed in Cr.Misc.Nos.5706 of 2014 and 447 of 2012. The occurrence of alleged deposit relates to period from 1997 to 2002 and the case has been lodged on 01.12.2010. After investigation police had submitted chargesheet on 04.02.2012 vide chargesheet no.4/2012 and kept further investigation pending. The police further submitted supplementary chargesheet against this petitioner and one Bibeka Nand Ram against whom the learned Magistrate has taken cognizance as per order dated 08.04.2013. One of them, namely, Bibeka Nand Ram filed quashing application vide Cr.Misc.No.8867 of 2014 which has been allowed on 16.09.2014 and cognizance order dated 08.04.2013 passed in East Colony P.S.Case No.34 of 2010 has been quashed. The learned APP does not dispute that the case of this petitioner stands on similar footing. The allegation against this petitioner is vague and does not find support from the material in the case diary.

5. In view of above facts, the cognizance order dated 08.04.2013 passed in East Colony P.S.Case No.34 of 2010 by CJM,



Munger with respect to this petitioner is hereby quashed and the application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	02.08.2017
Transmission Date	02.08.2017

