

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43788 of 2013

Arising Out of PS.Case No. -113 Year- 2013 Thana -KISHUNPUR District- SUPAUL

=====

Umesh Kumar, Son Of Sri Masudan Choudhary, resident of village and P.S. -
Kishanpur, District - Supaul

.... Petitioner/s

Versus

1. The State of Bihar
2. Pradeep Kumar, son of Sri Radhe Shyam Choudhary, resident of village -
Tharbiha, P.S. - Kishanpur, District - Supaul

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Advocate.
For the Opposite Party/s : Mr. Shailendra Kumar 2, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-04-2017

1. This application has been filed for quashing the order dated 26.8.2013 passed by the learned Chief Judicial Magistrate, Supaul, in Kishunpur P.S. Case No. 113 of 2013 by which the learned Magistrate took cognizance under Sections 406 and 420 of the Indian Penal Code against the petitioner.

2. Heard learned counsel for the petitioner and State.

3. Prosecution case is that petitioner being the agent of Angel Company convinced the informant and other depositors to deposit the amount in the aforesaid company and on such assurance, the informant and other depositors as named in the written report, deposited the money in the company and company fled away after closing its office in Supaul. It is alleged that petitioner at the time of convincing the depositors had assured that he took responsibility to



return the money but on demand, the petitioner refused to return the money and also gave threat to the depositors to implicate them in the case.

4. From the impugned order it appears that case was investigated by the police. The police after investigation submitted charge sheet for the offence under Sections 406, 420, 468 and 471 of the Indian Penal Code.

5. The learned Magistrate is only required to see *prima facie* case at the time of taking cognizance on the basis of allegation made in the written report and the materials available in the case diary. The witnesses in the case diary have supported the allegation against the petitioner.

6. Therefore, this Court does not find any illegality in the impugned order by which the learned Magistrate has taken cognizance for the offence under Sections 406 and 420 of the Indian Penal code.

7. Accordingly, the application is dismissed.

8. The petitioner is given liberty to raise all the points as raised in this application at the time of framing of charge in the court below which shall be disposed off in accordance with law.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.04.2017
Transmission Date	27.04.2017

