

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17665 of 2014

Arising Out of PS.Case No. -1176 Year- 2013 Thana -SAMASTIPUR COMPLAINT CASE
District- SAMASTIPUR

- =====
1. Yugal Kishore Pd. Singh @ Jugal Kishore Singh, S/o Late Nawal Kishore Singh
 2. Alok Kumar, S/o Yugal Kishore Pd. Singh @ Jugal Kishore Singh,
Both are residents of Mohalla Adarsh Nagar, Behind Hero Honda Agency, P.O.
Samastipur, P.S. Samastipur Muffasil, District Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rajesh Kumar @ Raju S/o Sitaram Sah, Resident of Mohalla Gudari Bazar, P.S.
Samastipur Town, District Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-07-2017

Heard learned counsel for the parties.

2. The petitioners have challenged order dated 11.11.2013
(though wrongly mentioned in the order sheet as 11.12.2013) passed
by the Judicial Magistrate, 1st Class, Samastipur in Complaint Case
No. 1176 of 2013 whereby he has taken cognizance under Section 406
and 417/34 of the Indian Penal Code and Section 138 of the Negotiable
Instrument Act and summoned the petitioners to face trial.

3. The complaint is filed by one Rajesh Kumar Das, O.P.
No. 2 of this application, alleging therein that Raman Kumar Singh,



registered contractor in the Railway, took loan of Rs. 2 lacs from him with a promise to return back with interest. Moreover, as security, he issued a post dated cheque of Rs. 2,12,000/- in favour of the complainant. The allegation against these two petitioners is that they are father-in-law and brother-in-law of Raman Kumar Singh (another accused) and they persuaded the complainant for giving loan.

4. Learned counsel for the petitioners submits that petitioner no. 1 was a Government employee at that time but recently retired and in order to put pressure to them, they were also implicated in this case however specific allegation is only against Raman Kumar Singh regarding taking loan and not by these two petitioners. So on these facts, no prima facie case of cheating or breach of trust against these petitioners is made out.

5. Learned counsel appearing on behalf of the O.P. No. 2 submits that both these petitioners are also responsible because they persuaded the complainant thereafter loan was given to Raman Kumar Singh.

6. Having considered rival submissions and on perusal of the record, the allegations if taken in entirety against the petitioners, no case of any breach of trust is made out as there is no entrustment of any money with these petitioners besides this no allegation of deceiving the complainant or dishonest inducement to deliver



any property. The specific allegation is that loan was taken by another accused Raman Kumar Singh which is admitted position in the complaint, except the allegation that these two petitioners persuaded the complainant for giving loan there is no other allegation against these petitioners. The allegation of persuading complainant by the petitioners to give loan to another person does not constitute any offence. Hence, the criminal proceeding including the order taking cognizance dated 11.11.2013, wrongly mentioned as 11.12.2013, is set aside with respect to these petitioners only.

7. The petition stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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