# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Criminal Miscellaneous No.10288 of 2014**

Arising Out of P.S.Case No. -45 Year- 2010 Thana -DANDKHORA District- BANKA

Anjani Kumar Ghosh S/O Late Ravindra Nath Ghosh Resident Of Mohalla- Babu Tola, Banka, P.S- Babu Tola, District- Banka.

.... .... Petitioner

Versus

1. The State Of Bihar
2. Rajendra Kishore Jha S/O Dhirendra Kishore Jha Resident Of Village- Shri Nagar Daodi, P.S- Shri Nagar, P.O Shri Nagar, District-Purneas, the then Branch Manager, Central Bank of India, Sauriya Branch, P.S.- Dandkora, District-Katihar.

.... .... Opposite Parties

**Appearance :**

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| For the Petitioner | : | Mr. Raj Kumar Rajesh, Advocate |
| | : | Mr. Girish Chandra, Andocate |
| For the Opposite Parties | : | Mr. Jitendra Kumar Singh, APP |

**CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR**
ORAL JUDGMENT
**Date: 17-07-2017**

Heard.

**2.** A police case vide Dandkhora P.S.Case No.45 of 2010/G.R.No.1684 of 2010 was registered on the basis of written report of Branch Manager wherein it has been alleged that this petitioner while posted as cashier in the branch from 10.01.2005 to 21.05.2007 illegally withdrawn an amount of Rs.82,000/- from the accounts of different account holders. He used the said money for his own benefit.

**3.** It is submitted that the present case has been lodged due to personal grudge and vengeance of the employees of the bank. A departmental proceeding was initiated against the petitioner which held ex-parte and the petitioner was held guilty and he was dismissed from service. The said dismissal order was challenged before this Court vide CWJC No.15633 of 2008. The present case has been lodged without any audit report and so the criminal prosecution of the petitioner and impugned order taking cognizance is fit to be quashed.

**4**. The learned APP opposed the submission.

**5**. On perusal of the FIR as well as impugned order, I find that this petitioner was accountant on the relevant date. There is specific allegation that he was Chief Cashier and during the relevant period he illegally withdrew the cash amount from six account holders as per detail given in the written report. The carbon copy of the case diary available on record shows that the informant at para-4 and the account holders at paras-6,7,8,9,10 and 11 of the case diary have supported the allegation of illegal withdrawal of their money by the petitioner from their respective accounts. The witnesses have stated that the amount which was deposited by them were entered in their pass-book but when they visiting for withdrawal, the same was not paid as the same were not entered in the ledger of the bank which clearly indicates that the persons involved in maintaining ledger maliciously did not enter the amount. Learned Magistrate finding sufficient material of the case diary has rightly taken cognizance against the petitioner for the offence under Sections 406 and 409 of the IPC. The defence of petitioner as regards audit and other defence has to be considered at proper stage during the trial.

**6.** In view of the above, I do not find any merit in this application. Accordingly, this application is dismissed.

**(Sanjay Kumar, J)**

B.Kr./-

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