IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19306 of 2014

Arising Out of PS.Case No. -12 Year- 2013 Thana -CHANDAR District- BANKA

Mithilesh Kumar S/o Sri Ganga Prasad Purve resident of Station Basti, Chandil, P.S.- Chandil, District- Sarai Kela Kharsawan, Jharkhand

.... Petitioner

Versus

1. The State of Bihar
2. United Bank of India, Nawadih Branch, P.S,- Chandan, District- Banka through its Branch Manager

.... Opposite Parties

Appearance :

For the Petitioner : Mr. Subodh Kumar, Jha, Advocate
Mr. Ram Chandra Jha Ramal, Advocate

For the Opposite Parties : Mr. Ram Anuragh Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 31-07-2017

This application is filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 for setting aside order dated 9.2.2013 passed by Chief Judicial Magistrate, Banka in Chandan P.S. case No.12 of 2013, whereby he has taken cognizance of the offence under Sections 420, 409, 120B/34 of the Indian Penal Code.

2. The brief fact stated in the F.I.R. lodged by the present Bank Manager of United Bank of India, Nawadih Branch is that the then Branch Manager Anil Kumar Gupta, Mithilesh Kumar the petitioner and one Nihar Prasad Yadav another employee of the said Branch of the Bank entering into conspiracy has misappropriated Rs.19,57,114/- from the Government account standing in the official

account of DDC, Banka. It is alleged that one pre-activated A.T.M. Cards were kept in custody of Anil Kumar Gupta and this petitioner Mithilesh Kumar out of that are pre activated card was activated against official account of D.D.C., Banka using personal official password of Mithilesh Kumar, petitioner and Nihar Prasad Yadav and also verified it.

3. It is submitted by learned counsel for the petitioner that the petitioner was a Probationary Officer at the relevant period and pre activated A.T.M. Cards were kept in exclusive possession of the then Manager Anil Kumar Gupta and in good faith, he had taken the pass word of this petitioner and Nihar Prasad Yadav and got the A.T.M. Cards activated and issued in the name of D.D.C. and the evidence collected during investigation shows that Anil Kumar Gupta and his son used that A.T.M. Cards and not the petitioner.

4. Learned Additional Public Prosecutor supports the cognizance order. He submits there is specific allegation against this petitioner that he activated and issued A.T.M. Cards in the name of D.D.C., Banka though there is no provision for issuing A.T.M. Cards against Government Account. There is specific rule of the Bank in this regard.

5. Having considered rival submissions and on perusal of record, it appears that a departmental proceeding was also initiated by the Bank against the petitioner. Vide Annexure-7, the specific

charge against him is that A.T.M. Card was issued by him against D.D.C., Banka official account without obtaining any request letter and any A.T.M. form. Secondly, Card was issued by him against an account which is not authorized for A.T.M. Cards since it is an account of a Government Department. Thirdly, after issuance of A.T.M. Card, neither entered into register nor receipt of the Card was obtained by him from the account holder. Lastly, the Card was issued out of sequence. During enquiry, the charges were proved against him. The allegation against the petitioner is specific that he being the custodian of the pre-activated A.T.M. Card along with Anil Kumar Gupta, the then Branch Manager by using pass word the petitioner concerned A.T.M. Card was activated and later on used it and Government money worth Rs.19,57,114/- has been misappropriated. Moreover, police after investigation finding evidence against him has also submitted charge sheet against this petitioner, so in the backdrop of these facts, this Court does not find any ground for quashing cognizance order.

6. This application stands dismissed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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