

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11144 of 2014

Arising Out of P.S.Case No. -114 Year- 2010 Thana -GARDANIBAGH District- PATNA

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Rajesh Kumar Son of Chandra Shekhar Mistri R/O Village-and P.O. - Pondil, P.S.
Kurtha, District Arwal

.... Petitioner

Versus

1. The State of Bihar
2. Branch Manager, SKS Microfinance Limited Company, Anisabad, Laxmi Enclave, 2nd floor, Anisabad, P.S. Gardanibagh, District-Patna.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Shailendra Kumar, Advocate
For the Opposite Party No.2	:	Mr. Sandip Kumar Gautam, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 02-08-2017

This application under section 482 of the Cr.P.C. has been filed to quash the order dated 13.01.2014 passed by learned Judicial Magistrate, Ist Class, Patna in Gardanibagh P.S.Case No.114 of 2010 whereunder the learned Magistrate finding prima-facie case for the offence under sections 406 and 420 of the IPC, summoned the petitioner.

2. Heard and perused the record.

3. Admittedly the petitioner was working as Field Officer of Financial Company (Opposite Party No.2) who had given Rs.5,98,000/- for distribution as loan. This petitioner did not distribute the loan as sanctioned by the company and fled away with the said amount. The Opposite Party No.2 terminated this petitioner and lodged the FIR with SHO of Gardanibagh P.S. for the offence under Sections 406 and 420 of the IPC.

4. It has been submitted that the court below has taken



cognizance in mechanical manner without applying judicial mind. The petitioner was working as field officer and his duty was to promote the business of company. The loan was being provided at Branch Office and this petitioner had no concern with the distributions of loan. The Branch Manager has lodged this case with oblique motive as the petitioner was noticed to receive the outstanding amount of Rs.1536/- towards full and final settlement as annexed with the application.

5. Learned counsel for the APP as well as Opposite Party No.2 opposed the submissions.

6. It appears that the matter was investigated by the investigating agency who submitted chargesheet against the petitioner for the offence under Sections 406 and 420 of the IPC. The learned Magistrate finding prima-facie case against the petitioner has rightly taken cognizance under Sections 406 and 420 of the IPC. It further appears that the charges have been framed by the court below and the case is pending for evidence. Petitioner will have opportunity to raise his defence of false implication at the time of trial.

7. In view of the above facts, I do not find any illegality in the impugned order. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.08.2017
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