

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27831 of 2014

Arising Out of PS.Case No. -141 Year- 2011 Thana -SACHIWALAYA District- PATNA

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1. Om Prakash Singh, Son of Late Janardan Singh
 2. Sanjeev Kumar Singh, Son of Om Prakash Singh, Both are resident of Village - Barkuwa, P.S. - Paharpur, District - East Champaran.

.... Petitioner/s

Versus

1. State of Bihar
2. Radhey Shyam Yadav, S/o- Late Rasik Lal Yadav, R/o- Sharnam Apartment, Patliputra Colony, P.S.- Patliputra, District- Patna.

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Krishna Kant Singh & Md. Ataul Haque

For the Opposite Party/s : Mr. Yashraj Bardhan & Mr. Prakash Chandra

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 27-07-2017

Heard learned counsel for the petitioners, learned counsel for the opposite party no. 2 as well as learned APP for the State.

2. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 04.01.2014 passed by learned J.M. 1st Class, Patna in Sachiwalya P.S. Case No. 141 of 2011 whereby taking cognizance under Sections 420, 406, 467, 468, 471 and 506/34 of the Indian Penal Code against the petitioners.

3. It is submitted by learned counsel for the petitioners that the petitioner no. 1 has never taken Rs. 11,00,000/- (Rs. Eleven Lac) from the informant for admission of his son in M.B.B.S. course



and also never executed any agreement in this regard. He has further submitted that he has never given any assurance to the informant for getting his son admitted in the Era Medical College of Lucknow (U.P.) in M.B.B.S. Course and has also never handed over any receipt of amount of Rs. 3,10,000/- (Rs. Three lacs ten thousand) to the informant. The petitioner no. 1 never informed the informant that petitioner no.2 is a lecturer at Chennai and he is also a member of the Managing Board of Era Medical College, Lucknow (U.P). It is further submitted that this Court vide order dated 07.10.2013 in Cr. Misc. No. 20304 of 2012 had given direction to the Supervising Authority to supervise the case on the aforesaid aspects of the matter but in vain. It is purely a case of civil nature. Hence, taking cognizance in the matter is the abuse of the process of the Court.

4. On the other hand, learned counsel for the opposite party no. 2 submitted that the petitioners had taken Rs.11,00,000/- (Rupees Eleven lacs) from him for getting his son admitted in Era Medical College, Lucknow (U.P.), in the Course of M.B.B.S. pretending petitioner no.2 as a lecturer in an Engineering College at Chennai and also member of the Board of Era Medical College. But on failure to get his son admitted, the petitioners executed an agreement to return the aforesaid amount. But neither his son was got admitted in the Medical College nor Rs. 11,0000/- (Rs. Eleven lac)



returned to him. However, later on the petitioners have deposited Rs. 1,90,000/- on different dates in his account at Chennai. Thus, the petitioners have cheated him and misappropriated his aforesaid money.

5. From perusal of the records it appears that Sachiwalya P.S. Case No. 141 of 2011 has instituted by the informant against the petitioners with the allegation in succinct that the petitioners took Rs. 11,00,000/- (Rs. Eleven lac) from him for getting his son admitted in the Era Medical College, Lucknow in the M.B.B.S. course, claiming petitioner no.2 to be a lecturer in the M.G.R. Education and Research University Chennai and also a member of the Management Board of Era Medical College Lucknow (U.P.) and called the informant at Lucknow. When the informant reached at Lucknow, the petitioner no. 2 handed him over the receipt of Rs. 3,10,000/- (Rs. Three lacs ten thousand) saying that his son has been admitted in the said college. But when the informant met the Management of the Era Medical College, Lucknow (U.P.) and displayed him the receipt, he told him that there is no member of Management Board of the Era Medical College, Lucknow (U.P.) naming Sanjeev Singh and the receipt is forged one. Then the informant tried to contact with the petitioners and after several efforts he contacted with the petitioner no.2, then he assured to return the entire money to him at his college at Chennai



and when the informant reached at Chennai, it revealed that the petitioner no. 2 is not the lecturer rather he is a 3rd year student in that college. Petitioner no. 2 got an agreement executed for returning the aforesaid amount to the informant. But he failed to comply with the same and fled away from Chennai. When the informant met with petitioner no. 2 and his relative, they assured to return his money, but they did not pay the same rather abused him and extended threatening of dire consequence.

6. On perusal of the charge sheet of case diary, the learned Magistrate finding prima-facie case against the petitioners under Sections 420, 406, 467, 468 and 471/34 took cognizance against them.

7. From perusal of the records, it appears that the petitioners are said to have taken 11,00,000/- (Rs. Eleven lacs) from the informant in the name of getting his son admitted in Era Medical College (U.P.), in M.B.B.S. Course pretending the petitioner no. 2 as lecturer in M.G.R. Education & Research University, Chennai and also member of the Management Board of Era Medical College, Lucknow and handed over the informant forged receipt of Rs. 3,10,000/- as evidence of admission of the son of informant in the said college. But the petitioners neither got his son admitted in the college nor returned his money and even after giving assurance, the



petitioners did not return the money to the informant and extended threatening of dire consequences. The petitioner has deposited Rs. 1,90,000/- (Rs. One lac ninety thousand) in the account of the informant on different dates at Chennai as evident from Annexure-2A filed by informant. The agreement filed by the informant vide Annexure-2, prima-facie, indicates that the petitioner no. 2 had got executed the said agreement under his signature admitting taking of the money from the informant for the aforesaid purpose and promised to return the same.

8. In view of the aforesaid facts and circumstances and the materials available on record, prima facie is made out against the petitioners under Sections 420, 406, 467, 468, 471 and 506/34 of the Indian Penal Code.

9. Hence, I do not find any substance in this petition. Accordingly, this quashing petition is dismissed.

(Prakash Chandra Jaiswal, J)

khushbu/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	

