IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27439 of 2014

Arising Out of PS.Case No. -567 Year- 2013 Thana -BETTIAH CITY District- WESTCHAMPARAN(BETTIAH)

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1. Vijay Kumar, Son of Banka Mahto Viyogi, Resident of Village-Christian Quarter, Bettiah, P.S.-Bettiah Town, District-West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sudhanshu Kumar @Sudhanshu Shankar, S/o- Om Narain Singh, R/o- Mohalla-Ujjain Tola, Bettiah, P.S.- Town Bettiah, Distt.- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kishore Choudhary, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Tiwary-I, (APP)

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 26-07-2017

Heard learned counsel for the petitioner as well as learned APP for the State.

2. This application under Section 482 of the Cr.P.C. has been filed for quashing the FIR of Bettiah Town P.S. Case No. 567 of 2013 registered under Sections 406 and 420 of the Indian Penal Code against the petitioner Vijay Kumar.

3. It is submitted by learned counsel for the petitioner that Shamim Akhtar is the terror of Bettiah Town. The petitioner after entering into business of liquor was targeted for Rangdaries by him. On 02.07.2013 he has abducted to the house of Shamim Akhtar and was made to sign a hand note and some blank cheques forcibly and

demand of Rs. Eighteen Crore was made with threatening of dire consequences. He went to Delhi to save his life and filed a complaint with DGP Delhi on 02.08.2013 which was forwarded to S.P. Bettiah and O.C. Bettiah but no action was taken on it. Thereafter, on the basis of complaint filed by the petitioner Bettiah Town P.S. Case No. 542 of 2013 was instituted. One of the aforesaid cheque might have been used by the informant at the behest of said Shamim Akhtar to falsely implicate the petitioner in the present case and to extort the said money from the petitioner. It is further submitted that the certificate given by HDFC bank indicate that the cheque book series containing the aforesaid cheque was issued by the said bank on 03.04.2013 to the petitioner but as per the prosecution case, the petitioner is said to have handed over the cheque to the informant on 16.01.2013. Hence, said aspect of the case goes to rule out the prosecution case. Moreover, no case under Sections 406 and 420 of the IPC is made out against the petitioner as there is no allegation that the intention of the petitioner was to misappropriate the money since very beginning of the transaction rather as per FIR itself the petitioner had given benefit of the share to the informant till five months, but thereafter, stopped the payment. It is purely a case of civil nature.

4. Learned counsel for the opposite party no. 2 despite service of notice and putting appearance in the case, did not turn up

before the Court.

8. From perusal of the record, it appears that the written report was filed by the informant against the petitioner with the allegation in succinct that on 16.01.2013 petitioner obtained Rs. 15,00,000/- from the informant giving assurance that he will invest the said money in share business and will give him lucrative benefit and handed him over cheque of HDFC Bank bearing no. 182369. The petitioner paid benefit of the share to him for five months but thereafter, stopped the same. The informant latter on learnt through the newspaper that the petitioner is absconding after cheating several persons. Then he presented the said cheque in the bank on 17.08.2013 but the same was bounced as payment stopped.

9. From perusal of record, it further appears that the cheque of the HDFC bank bearing no. 182369 was said to have been given by the petitioner to the informant on 16.01.2013 but the certificate issued by the HDFC Bank, Bettiah Branch filed by the petitioner vide supplementary affidavit indicates that the cheque book of the cheque series of 182356 to 182380 was issued in favour of the petitioner on 03.04.2013 i.e. much later to the date of occurrence, which goes to completely rule out the prosecution case regarding issuing of aforesaid cheque to the informant by the petitioner. Moreover, from perusal of the written report, it appears that the

petitioner was not having any malafide intention to deceit the informant and to grab his money at the time of initiation of alleged transactions between the parties rather, the petitioner is said to have given the profit of share to the informant for five months and thereafter, stopped the payment. If the informant has any grievance, he may file civil suit against the petitioner for recovery of the aforesaid amount.

10. In view of the aforesaid facts and circumstances, I do not find any material in the FIR making out the aforesaid offence against the petitioner and in my considered view, it is an abuse of process of the court. Accordingly, this quashing petition is allowed and the aforesaid FIR lodged against the petitioner is quashed.

(Prakash Chandra Jaiswal, J)

khushbu/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	10/08/2017
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