

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18993 of 2013

Arising Out of PS.Case No. -1149 Year- 2011 Thana -BHABHU(KAIMUR) COMPLAIN C
District- BHABHUA (KAIMUR)

Priya Sinha, daughter of Sunil Kumar Sinha, Ram Nandi Auto Mobiles Pvt. Ltd.
Resident of Bansi Sadan, Chand Choura, PS Civil Lines, District Gaya

.... Petitioner

Versus

1. The State of Bihar
2. Satya Narayan Tiwari, son of Sri Rajendra Tiwari, resident of Village Rehi, P.S. Sonhan, District Kaimur, At present resident of Mohalla Sivo Behind of Bhabua (Sadar) Police Station, P.S. Bhabua, District Kaimur

.... Opposite Party

Appearance :

For the Petitioner : Mr. Satya Veer
Mr. Rana Pratap
Mr. Sanjay Kumar Jha
For Opposite Party No. 2 : Mr. Sunil Kumar
For the State : Mr. Sunil Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 02-11-2017

Heard learned Counsel for the petitioner, learned Counsel for the State as also the learned Counsel appearing on behalf of Opposite party No. 2.

2. The petitioner by invoking the inherent jurisdiction of this Court under the provisions of Section 482 of the Code of Criminal Procedure seeks setting aside of cognizance order dated 18.1.2013 passed by the learned CJM Kaimur at Bhabua in Complaint Case No. 1149 of 2011, thereby taking cognizance of the offence under Sections 406, 420, 468 and 471 of the IPC and issued summon against the petitioner to stand trial in the case.

3. The brief fact giving rise to the case is that the



complainant purchased a Tata Magic vehicle after getting finance from Tata Motors Finance Ltd. Rama Nandi Automobiles Pvt. Ltd. Chand Choura, Gaya (Dobhi) Gaya. He used to pay EMI at the Dobhi Office. The specific allegation in the complaint is that on 14.7.2010 he paid EMI of Rs. 7400 as one of the installment relating to his vehicle and Rs. 6500/- with respect to the installment of the vehicle of Tejpati Tiwari. Earlier another co-accused Chandra Bhan Singh, who was agent of Rama Nandi Automobiles Pvt. Ltd, through whom he had purchased the vehicle, had come on the occasion of inauguration of the office in Mohania at Kaimur and on 14.7.2010 he came to the house of the complainant and asked him to pay the EMI and accordingly the amount of installment of Rs. 7400/- and Rs. 6500/- of Tejpati Tiwari was paid there. He had also given acknowledgement receipt on a plain paper and promised to give the actual receipt later on, but the same was not provided even after lapse of two months. A legal notice was received by Tejpati Tiwari on 10.8.2011 that your installment is due. One acknowledgement receipt of the amount was given to Ramesh Singh which was found to be forged, so the complainant went to Dobhi and informed Priya Sinha, this petitioner. She promised to look into the matter but nothing was done by her. She asked him to approach Mohania Branch where Ramesh Singh, Branch Manager of Mohania Office, asked him to get the matter settled with Chandra Bhan Singh.

4. Learned Counsel for the petitioner submits that there is no allegation of receiving any money relating to the EMI for the vehicle of



the complainant or anybody else. The specific claim of the petitioner is that Chandra Bhan Singh approached him and asked him to pay the installments of Rs. 7400/- and Rs. 6500/- of Tejpati Tiwary and it is alleged that the said amount was not deposited by Chandra Bhan Singh with the company. The only allegation against the petitioner in para 11 of the complaint is that the complainant approached and informed about the conduct of Chandra Bhan Singh but she herself being an employee, the Branch Manager, cannot take action against Chandra Bhan Singh. So there is no criminal liability against this petitioner and no any ingredient of any offence, under which cognizance has been taken, is attracted against her.

5. Contrary to that, learned Counsel for the Opposite party No. 2 submits that earlier both sides agreed to settle the dispute outside the court, but it was not settled. Moreover this petitioner was also informed about the conduct of Chandra Bhan Singh but no action was taken by the petitioner.

6. Having considered the rival submissions and on perusal of the record, the Court finds that no criminal liability against the petitioner is attracted, who was a Branch Manager in the concerned Automobiles Agency at Dobhi, Gaya. There is specific allegation against the agent Chandra Bhan Singh who collected the EMI at the house of the complainant but as per the allegation he has not deposited the said amount with the Company. So no offence is made out against the petitioner considering the allegations in entirety made in the complaint as well as the considering the materials on record, hence continuance of the



criminal proceeding against the petitioner would be abuse of the process of the Court. So entire criminal proceeding inclusive of the cognizance order dated 18.1.2013 passed in Complaint Case No. 1149 of 2011 pending in the Court of CJM Kaimur is hereby set aside only with respect to the petitioner.

7. Accordingly, the application stands allowed.

(Arun Kumar, J.)

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AFR/NAFR	
CAV DATE	N/A
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