

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50301 of 2014

Arising Out of PS. Case No.-75 Year-2013 Thana- KADWA District- Katihar

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Hakru Sharma @ Karu Sharma son of Late Bharoshi Sharma, resident of
village- Sanjheli, P.S.- Kadwa, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Adv

For the Opposite Party/s : Mr. RAJENDRA NATH JHA (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 13-10-2017

Heard learned counsel for the parties.

This petition under Section 482 of the Cr.P.C has been filed for quashing the order dated 07.06.2014, passed by learned Chief Judicial Magistrate, Katihar in Kadwa P.S. Case No. 75 of 2013, by which cognizance has been taken under Sections 420, 468, 471/34 of the Indian Penal Code, against the petitioner.

Briefly stated, the facts of the case is that petitioner had submitted a residential certificate to the Branch Manager of Central Bank of India, Kumhari Branch, issued by Circle Officer, Kadwa. The Branch Manager of Central Bank of India, Kumhari Branch, send the residential certificate issued by the



Circle Officer, Kadwa for verification, and it was found that the said certificate is a forged certificate. On receiving verification report, the Branch Manager of Central Bank of India, Kumhari Branch, filed a written complaint to the Officer-in-Charge of Kadwa P.S. which gave rise to Kadwa P.S. Case No. 75 of 2013.

After investigation the police found case against the petitioner and other accused to be true and submitted chargesheet against the petitioner under Sections 420, 467, 468, 471/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It has been further submitted that one co-villager Rajni Kant Gupta, who was employed in the Circle Officer on contract basis as Computer Operator assured the petitioner that he will provide residential certificate to him. The petitioner in good faith submitted his application for grant of residential certificate with requisite documents, i.e. voter I-Card and requisite fees to said Rajni Kant Gupta. The Rajni Kant Gupta handed over him residential certificate no. 3072 dated 26.04.2013 and thereafter petitioner submitted it to Branch Manager of Central Bank of India, Kumhari Branch, and the said Branch Manager thereafter sent the residential certificate for verification to the Circle



Officer, Kadwa who reported that the said certificate is forged document and has not been issued from his office. On receipt of said verification report the Circle Officer, Kadwa send letter no. 560 dated 03.05.2013 addressed to the S.H.O, Kadwa. On the basis of such written report Kadwa P.S. Case No. 75 of 2013, was instituted and after investigation police submitted chargesheet against the petitioner and said Rajni Kant Gupta on submission of chargesheet under Sections 420, 467, 468, 471/34 of the Indian Penal Code.

The court below after perusing FIR, chargesheet as well as case diary and statement of witnesses recorded in support of prosecution case found sufficient materials available on record to take cognizance against Hakru Sharma @ Karu Sharma (petitioner) and Rajnikant Gupta for the offence punishable under Sections 420, 468, 471/34 of the Indian Penal Code and took cognizance of the offence and issued summons for their appearance to face the trial.

The trial court after perusing the FIR, chargesheet, case diary and statement of witnesses and evidence collected during investigation, has found that there are sufficient materials to proceed against the accused and has taken cognizance under Sections 420, 468, 471/34 of the Indian Penal Code for their



appearance to face the trial.

At the stage of taking cognizance the court has to form an opinion that *prima facie* case on the basis of materials available on record against the accused is made out or not. The defence of the accused cannot be considered at the time of taking cognizance. This Court also in its inherent jurisdiction cannot substitute its view regarding sufficiency of material before the court below and substitute its view against summons order issued by the trial court, as such I am not inclined to interfere with the order dated 07.06.2014, at this stage. The petitioner will be at liberty to raise all the issues raised before this Court as well as other points available to him in accordance with law at subsequent stage i.e. at the time of filing of discharge petition/framing of charge, if not already framed.

With the said observation and liberty, this petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.11.17
Transmission Date	10.11.17

