

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34606 of 2013

Arising Out of Case No. -2330 Year- 2008 Thana -SIWAN COMPLAINT CASE District- SIWAN

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Yogendra Prasad, S/O Guljar Sah, Resident of Village Rohra Kala, Post Bail Garh,
P.S. Badhariya, District Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Harendra Prasad, S/O Late Nageshwar Prasad, Resident of Village Rohra Kala,
P.S. Badhariya, District Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-07-2017

Heard learned counsel for the parties.

2. The petitioner has preferred this quashing petition against order dated 30.05.2013 passed by the 2nd Additional District and Sessions Judge, Siwan in Cr. Rev. No. 39 of 2010 whereby he has declined to interfere with the order taking cognizance dated 18.02.2010 passed by Judicial Magistrate, 1st Class, Siwan in Complaint Case No. 2330 of 2008 under Sections 406 and 120B of the Indian Penal Code.

3. Petitioner is one of the accused in Complaint Case No. 2330 of 2008. Complainant is the Chairman of Rosra PACS and the allegation in brief is that he after being elected as Chairman of Rosra PACS, he asked the petitioner, Manager of the PACS, to produce



register of meeting before him, but same was not produced. Thereafter, reported the matter to the District Co-operative Officer, Siwan (accused no. 1 in complaint), but no action was taken so suspicion is raised that Government money has been defaultated by all the three accused persons. Accused no. 2 in compliant is the son of the petitioner.

4. Learned counsel for the petitioner submits that the contents of the allegation levelled in the complaint, did not show any entrustment of money with the petitioner or any defaultation was done by him. The only allegation is that the petitioner did not produce the register of meeting before the complainant. It is further submitted that earlier Baban Mishra (accused no. 3 in complaint), who had also filed a quashing petition before this Court for setting aside the aforesaid cognizance order dated 18.02.2010 has been quashed by a co-ordinate Bench of this Court vide order dated 12.01.2017 passed in Cr. Misc. No. 34822 of 2013.

5. The learned A.P.P. supports the impugned order.

6. Having considered rival submissions and on perusal of record, I find that only allegation against this petitioner in the complaint is that register relating to holding of meeting was not produced before the complainant, who was a newly elected Chairman of the concerned PACS. There is no allegation in the complaint that



any defaultation has been made by the accused persons. The allegation levelled in the complaint does not show that the petitioner was in custody of any Government money or the money deposited by the PACS. Moreover, cognizance order dated 18.02.2010 passed in this case has also been quashed by this court on 12.01.2017 passed in Cr. Misc. No. 34822 of 2013 on the petition filed by another co-accused Babban Mishra, the then District Co-operative Officer. So continuation of the criminal proceeding in the court below will be abuse of the process of the court. As already order taking cognizance dated 18.02.2010 has been quashed by this Court, so cognizance order and further criminal proceeding against this petitioner including the order dated 30.05.2013 passed in Cr. Rev. No. 39 of 2010 is also quashed.

7. The petition stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	21.07.2017
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