

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6786 of 2017

Arising Out of PS.Case No. -183 Year- 2015 Thana -SURYAGARHA District- LAKHISARAI

=====

Vijay Kumar @ Vijay Kumar Singh son of Late Sukho Singh @ Late Sukhdeo Singh resident of village - Rampur, P.S. - Suryagarha, District - Lakhisarai.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Opposite Party/s : Mr. Dr. Rabindra Kumar

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 07-04-2017

Heard learned counsel for the petitioner and the State.

The present application has been filed for quashing the order dated 26.05.2016 passed in Suryagarha P.S. Case No. 183 of 2015 by learned Chief Judicial Magistrate, Lakhisarai whereby cognizance has been taken for the offences punishable under Sections 420 and 406 of the Indian Penal Code.

The prosecution case is that one Rajesh Kumar Singh who happens to be the co-villager of the petitioner, as also a Member of Rampur PACS, submitted an application



before the S.H.O., Suryagarha Police Station alleging therein inter alia that the petitioner being his co-villager, as also an elected Chairman of Rampur PACS, purchased paddy from the farmers, as per the Government instructions, at the rate fixed by the Government. The informant and five other farmers of his village, gave their paddy to the petitioner being the Chairman of Rampur PACS and were given receiving of the same with an assurance that as soon as the Government fund will be received, the consideration amount of the paddy will be paid through cheque, but even after repeated demands, the consideration amount was not paid to the informant and other similarly situated co-villagers. Consequently, the villagers made a complaint in the Janta Darbar of the District Magistrate, Sub-divisional Officer as well as Co-operative Officer, upon which the petitioner being Chairman, assured to make payment of the consideration amount. It is further alleged that the informant came to know that the consideration amount was received by the accused from the Government, long ago but it was not given to the informant and ultimately the petitioner abused the informant for making such complaint, leading to registration of Suryagarha P.S. Case No. 183 of 2015 under Sections 420 and 406 of the Indian Penal Code.

On conclusion of investigation, the police



submitted Final Form (chargesheet) under Sections 420 and 406 of the Indian Penal Code against the petitioner and consequently, after perusing the materials collected during investigation, the learned Court below, vide impugned order, directed for issuance of process after cognizance being taken.

It is submitted by learned counsel for the petitioner that pursuant to the complaint made by the informant and others, the District Magistrate directed the District Cooperative Officer, Lakhisarai to conduct an enquiry. The enquiry report suggests that all the farmers including the mother of the informant were paid consideration amount, in whose favour the enforcement letter was issued. In the case of the informant, the consideration amount of paddy was deposited in the account of the mother of the informant. Hence, no prima facie case is made out against the petitioner.

Learned counsel for the State submits that on conclusion of investigation, Final Form (chargesheet) was submitted and consequently the learned CJM found, prima facie, case against the petitioner under Sections 420 and 406 of the Indian Penal Code.

Considering the rival submissions of the parties, this Court is of the view that at the stage of exercising



power under section 190(1) (b) Cr.P.C., the Magistrate has only to see whether the accusation constitutes a prima facie case. In the present case on the basis of the accusation levelled in the First Information Report, the investigation was concluded and Final Form (charge-sheet) was submitted against the petitioner. Thereafter the learned Chief Judicial Magistrate after perusing the material in the case diary, came to the conclusion that prima facie case is made out against the petitioner and accordingly, the learned Magistrate took cognizance.

It is well settled law that at the stage of exercise of power under section 190(1)(b) Cr.P.C. the Court has only to see whether prima facie case is made out or not.

The inherent power under section 482 Cr.P.C. does not confer any new power on the High Court. It only saves the inherent power which the Court possesses before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction can be exercised, namely, (i) to give effect to any order under the Code (ii) to prevent the abuse of the process of the Court and (iii) to otherwise secure the ends of justice. The amplitude of powers under section 482 Cr.P.C. are very wide, hence it requires greater caution in exercise of the inherent jurisdiction. The inherent power should not be exercised



to stifle a logical prosecution.

In the circumstances, this Court does not find any infirmity in the impugned order. More over, there is nothing on record to suggest the present stage of the case.

Accordingly, this application is disposed of with a liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

DKS/-Anil/

U		T	
---	--	---	--

