

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1739 of 2015

Arising Out of PS.Case No. -178 Year- 2012 Thana -KATIHAR COMPLAINT CASE District-
KATIHAR

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1. Manoj Kumar Singhania @ Pikku Son of Jagdish Pd. Singhania,
2. Smt. Santosh Singhania, W/o Manoj Kr. Singhania, Both are Resident
of Salmari, P.S. - Azamnagar, District - Katihar at present residing at Radha
Rani, Ambaji Textiles, Ringh Road, Surat (Gujrat).
3. Matadin Agrawal, S/o Late Birdhi Chand Agarwal, Resident of 45/40
Vidyapath, P.S. - Titagarh, P.S. - Kardah, District - North 24 Pargana,
Kolkata - 119.

.... Petitioners

Versus

1. The State of Bihar.
2. Sandeep Kedia, S/o Mahavir Prasad Kedia, Resident of Salmari, P.S. -
Azamnagar, District - Katihar.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. N.K. Agrawal, Sr. Advocate.
Mr. Dhananjaya Nath Tiwari, Advocate.
For the Opposite Parties : None.
For the State : Mr. Jharkhandi Upadhyay (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 28-02-2017 Heard Mr. N.K. Agrawal, learned senior counsel for

the petitioner and the learned APP for the State. Nobody appears
on behalf of the complainant opposite party no. 2 although power
has been filed on his behalf.

2. The petitioner seeks quashing of the order dated
14.12.2013 passed in C.A. No. 178 of 2012 by which prima facie
case under Section 403 read with Section 34 of the Indian Penal
Code was found to proceed against the accused persons.

3. The complainant opposite party no. 2 filed
complaint case alleging therein that he had to go to Jaipur and



therefore he entrusted the box containing Rs. 1 lakh to his Sarhu Manoj Kumar Singhania in presence of two other persons and requested him to keep the trunk in safe custody. When he returned, the trunk was handed over to the complainant but the money was missing from the trunk.

4. Sri N.K. Agrawal, learned senior counsel for the petitioners submits that from the order of the learned Judicial Magistrate no reason for finding the case prima facie true is settled. From perusal of the entire complaint petition, it would appear that there was no entrustment to Smt. Santosh Singhania and Matadin Agrawal, the petitioner no. 2 and 3 who happens to be the elder sister-in-law and father-in-law of the complainant. The petitioner no. 1 is husband of the petitioner no. 2. Even in the complaint case the presence of witnesses has not been stated and the story appears to be concocted. In such a case, the learned Judicial Magistrate mechanically found prima facie case under Section 403 read with Section 34 of the Indian Penal Code.

5. The complaint petition, itself, disclosed that petitioner no. 1 is brother-in-law, Sarhu of the complainant. The petitioner no. 2 is wife of petitioner no. 1 and petitioner no. 3 is father-in-law of the complainant and petitioner no. 1. The complainant has not disclosed that there was any entrustment to



petitioner no. 2 Smt. Santosh Singhanian and petitioner no. 3 Matadin Agrawal. The complainant simply stated that he was there but the complainant did not disclose this fact to the petitioners that any money was kept therein. On the facts as disclosed by the complainant in the complaint petition on the face, it appears that he filed the complaint case on a concocted story only because his wife filed maintenance case against him and the petitioners are father-in-law, brother-in-law and sister-in-law of the complainant. Before filing of this complaint petition, the wife of the complainant filed complaint petition under Section 125 Cr.P.C. for grant of maintenance against the complainant. Besides this fact, it is evident that the learned Judicial Magistrate, 1st Class, Katihar found prima facie case without giving any reason. The order is without reasoning and non-speaking. Therefore, I find that the order suffers from illegality and fit to be set aside.

6. Accordingly, the Cr. Misc. No. 1739 of 2015 is allowed and the order dated 14.12.2013 passed in Complaint Case No. 178 of 2012 is quashed.

(Prabhat Kumar Jha, J.)

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