

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41101 of 2014

Arising Out of PS.Case No. -156 Year- 2006 Thana -MARHAURA District- SARAN

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Girish Kumar Sinha, S/o Late Shiv Kumar Sharan, R/o Moh.- Bharat Milap Chauk,
P.S.- Bhagwan Bazar, District- Saran

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajesh Kumar Singh, S/o Sri Binda Singh, R/o Vill.- Salimapur, P.S.-
Marhaurah, Distt.- Saran at Chapra

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh, Adv.
For the Opposite Party no.1: Mr. Jharkhandi Upadhyay, APP
For the Opposite Party no.2: Mr.S.B.K. Mangalam, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 10-10-2017

Heard the parties.

The petitioner is seeking quashing of the order dated 02.02.2014/03.02.2014 passed by the learned Judicial Magistrate-1st Class, Saran at Chapra in Tr. No.199 of 2014 arising out of Marhaurah P.S. Case No.156 of 2016 under Sections 420, 406, 408, 341, 323, 504/34 of the Indian Penal Code by which the learned Magistrate has refused to allow the petition for discharge filed by the petitioner.

Learned counsel for the petitioner submits that while rejecting the discharge application, learned Magistrate has referred certain paragraphs of the case diary and from the statements appearing



in the case diary the court has come to a conclusion that there are sufficient materials for purpose of framing of charge against the present petitioner, but according to learned counsel the learned Magistrate has not referred those materials which are there against the petitioner. It is his case that the petitioner being the Branch Manager of the Bank has not received the money. Learned counsel therefore submits that the impugned order is fit to be set aside as no evidence is there on the record for the purpose of framing of charge.

On the other hand, learned counsel representing the opposite party no.2 submits that at the stage of framing of charge the court is not required to see whether there is an ultimate chance of conviction of accused. The court is only required to see whether there are sufficient evidences collected by the police for purpose of satisfying the ingredients of the offences alleged against the accused. He submits that in the present case the allegations as appearing from the FIR itself would show that there are specific allegations against this petitioner who was at the relevant time working as Branch Manager of the Bank.

This Court has perused the materials available on the record. The FIR (Annexure-1) specifically contains allegation against the present petitioner which has further been substantiated in course of investigation. The learned Magistrate took cognizance of the



offences and issued summons to the accused persons. One of the co-accused namely Ram Narayan Tiwari moved this Court in Cr.Misc.No.25217 of 2007 challenging the order taking cognizance and issuance of summon against him. The petitioner also filed a revision application giving rise to Cr.Rev.No.121 of 2007 in the court of learned Sessions Judge, but the said application was withdrawn because it transpired that Cr.Misc.No.25217 of 2007 was pending before this Court. Later on, vide order dated 04.02.2010, this Court considered the case of the petitioner in the said case i.e. Ram Narayan Tiwari and came to a conclusion that because the impugned order was not indicating the basis on which the learned Magistrate has differed with the opinion of the police on which issued summons against the petitioner the order was set aside and the application was allowed to the extent indicated in the order which in the opinion of this Court means that order issuing summons against the present petitioner i.e. Girish Kumar Sinha was not set aside.

Be that as it may the case proceeded and at this stage i.e. at the stage of framing of charge the learned Magistrate has found that there are sufficient materials against the petitioner. This Court is not going to weigh evidences with which the learned Magistrate has satisfied himself for purpose of framing of charge.

This Court is therefore not inclined to interfere with the



order impugned. The application is dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.10.2017
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