

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54286 of 2013

Arising Out of PS.Case No. -754 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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Ranjeet Kumar Singh @ Ranjeet Kumar, s/o late Suresh Prasad Singh, r/o village Garbhuchak, Khazpura, P.O. Bihar Veterinary College, P.S. Hawaii Adda, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vijay Kumar, s/o Sri Baliram Prasad, Managing Partner and Developers Mateshwari Developers Firm Office 101, B.P. Complex, First Floor, Kadam Kuan, Patna-800003, r/o Village Flat No. 404, Bidya Apartment, New Chitragupt Nagar, Kankarbagh, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate.

For the Opposite Party/s : Mr. Navin Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 19-05-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 14.8.2012 passed by the Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 754 of 2012 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner and other accused persons for the offence under Sections 406, 420 of the Indian Penal Code and Section 138 of N.I. Act.

2. Heard learned counsel for the petitioner and State.

3. It has been submitted on behalf of the petitioner that case of one of the accused Suraj Kumar with similar allegation



has already been quashed by a coordinate Bench of this Court vide order dated 31.7.2015 passed in Cr. Misc. 50335 of 2012.

4. In the complaint petition it is alleged that complainant has approached Pramod Kumar and other accused persons as named in the complaint petition for entering into development agreement for land of area 32178 Sq.ft., for which he paid Rs. 1 crore on different dates. Mahesh Prasad was the broker.

5. The accused Pramod Kumar has taken cheques in his favour and in favour of other accused person for Rs.1 crore as mentioned in paragraph-6 of the complaint petition. Pramod Kumar opened forged accounts in the Bank identified by him by forging signature of other accused persons. Mahesh Prasad, Broker, has wrongly identified the fictitious person and has taken Rs.5,24,000/- as broker commission from the complainant. The complainant started construction on the plot then real persons, Ranjit Kumar, Suraj Kumar, Suresh Prasad Singh and Krishna Kumar opposed and told that they have not signed the paper and they have not taken any money from Pramod Kumar.

6. The accused Pramod Kumar and Mahesh Prasad have accepted their own forgery and cheating and they executed a written agreement on 17.1.2012. The accused Pramod Kumar assured to return the amount of Rs. 1 crore and he has given three cheques as



mentioned in the complaint petition, total amounting to Rs.1 crore to the complainant. The accused Mahesh Prasad assured to return Rs.7,00,000/- and he gave cheque of Rs.7,00,000/- to the complainant and also made an agreement. The complainant deposited those four cheques in his account but all were dishonoured due to insufficient fund. The complainant informed the accused persons of dishonourment of cheques and also sent legal notice to the accused persons, but they did not pay the amount.

7. In this manner, from the allegation in the complaint petition itself, no any overt act is alleged against this petitioner. The Xerox copy of the Solemn Affirmation has been filed on behalf of the complainant.

8. From perusal of the aforesaid Solemn Affirmation, it appears that the complainant has levelled specific allegation against co-accused Pramod Kumar and Mahesh Prasad.

9. In such circumstances, this Court is of the view that continuance of criminal proceeding against this petitioner is an abuse of the process of the court.

10. Accordingly, the order dated 14.8.2012 passed by the Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 754 of 2012 by which the learned Magistrate after holding enquiry has found *prima facie* case against this petitioner for the offence under Sections



406, 420 of the Indian Penal Code and Section 138 of N.I. Act along with the entire Criminal Proceeding, is hereby quashed.

11. This Criminal Miscellaneous application stands allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.05.2017
Transmission Date	27.05.2017

