IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34767 of 2014

Arising Out of PS. Case No.-2820 Year-2012 Thana- KATIHAR COMPLAINT CASE District- Katihar

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Mohammad Raihan @ Md. Abu Raihan S/o Late Md. Yunus, the then Chief Manager, Central Bank of India, Khurial Branch, Azam Nagar, District Katihar, Presently posted as Chief Manager, Central Bank of India, Birpur Branch, District- Supaul

... ... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Reeta Devi, W/o Sonalal Singh, resident of village- Kalmegha, P.S.- Ajam Nagar, District- Katihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Hemant Kumar Sharan
For the Opposite Party/s : Mr. Shahin Begum(App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date : 10-04-2018

This application has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 6.6.2013 passed by learned C.J.M. Katihar in Complaint case no. C.A. no. 2820 of 2012 by which learned Magistrate has taken cognizance under Section 420 of the IPC against the petitioner.

In the complaint petition it is alleged that complainant applied for loan under PMEGP Scheme for installing a Rice Mill in consultation with accused nos. 3 and 4 in the year 2010. The District Industry Department after interview recommended the complainant to Central Bank of India, Khurial Branch, Katihar. This petitioner was the Branch Manager in the year

2011. He had sanctioned term loan of Rs. 2,00,000/- and Rs. 5,70,000/- was cash credit. The complainant, on the instruction of petitioner, opened an account by depositing Rs. 25,000/- cash. It is further alleged that on 10.12.2011 a term loan account was opened and Rs. 55,000/- was paid to the complainant but no pass book and cheque book was issued. The complainant learnt that quotation for the machine was given whose price was between 50-60 thousand in the market but quotation of Rs. 1,44,000/- was given in the Bank. The quotation was given by opposite party no.4 with the consent of the accused nos. 2 and 3. The complainant, on getting knowledge about the price of the said machine, made protest and requested not to purchase the said machine whose real value is 50-60 thousand. The petitioner did not listen to the objection of the complainant and as per the quotation given by accused no.4, the machine was sent to the house of complainant which was lying useless. Thereafter, the complainant was given cheque book in respect of the cash credit account. This petitioner took four cheques as mentioned in the complaint petition from the complainant after obtaining her signature. The petitioner assured that cheque would not be encashed but later on Rs. 1,55,000/- was withdrawn from the term loan account with collusion of other accused persons. The complainant made complaint to various other authorities as mentioned in the complaint petition. It is further alleged that Rs. 1,55,000/- which was encashed from the account was later on deposited in the account of the complainant which caused suspicion to the complainant. It is also alleged that on 17.7.2012 notice was sent to the complainant under signature of present Branch Manager (accused no.1) demanding Rs. 2,09,633/- as outstanding in the said term loan account. The complainant has further alleged that the loan was sanctioned by the Industry Department under PMEGP Scheme. There was no any transaction made from the Cash Credit account but in spite of that notice was given by the Branch Manager to the complainant. Learned counsel for the petitioner has enclosed a copy of the S.A. of the complainant from which it appears that she has supported the case. The learned Magistrate has after looking into the S.A. and statement of the witnesses recorded under Section 202 of the Cr. P.C. found *prima facie* case against the petitioner and other accused persons for the offence under Section 420 of the IPC.

A counter affidavit has been filed on behalf of the opposite party no.2 stating therein that case is pending for evidence of the witnesses before charge and one of the witness has also been examined and cross examined on 15.12.2015.

Learned counsel for the petitioner has submitted that petitioner has already retired from service. The complainant has not leveled any allegation of withdrawal of amount against this petitioner in her S.A. rather she has leveled allegation against the present Branch Manager, namely Tarak Singh. He has further submitted that complainant herself came to the Bank with the supplier and cheque was issued to the supplier by the Bank on the instruction of the complainant. It is further submitted that an amount of Rs. 1,55,000/- has already been deposited by the accused no.3 in the account of complainant on 17/5/12.

This Court is of the view that these disputed questions of fact can be properly adjudicated in the trial. This Court does not find any illegality in the impugned order. Accordingly, this Cr. Misc. petition is dismissed. The Court below will proceed in the trial in accordance with law.

The petitioner is , however, given liberty to raise all the points as raised in this petition at the appropriate stage either at the time of framing of charge or during the trial which shall be considered by the Court below in accordance with law without being prejudiced by the present order.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.4.18
Transmission Date	26.4.18