

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47158 of 2017

Arising Out of PS.Case No. -259 Year- 2017 Thana -AURANGABAD COMPLAINT CASE
District- AURANGABAD

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1. Rajiv Rishi, son of Satpal Sharma, Chairman-Cum- Managing Director, Central Bank of India, Chander Mukhi, P.S. Marine Lines, Mumbai- 400021.
 2. U. Mohapatra @ S. Mohapatra, son of Late J.M. Mohapatra, the then G.M.G.A.D. now posted as General Manager (Operations), Central Bank of India, at Fort, P.S. Azad Maidan, Mumbai- 400021.
 3. D. Dutta @ B. Dutta (Dwizen Dutta), son of Late Ravindra Nath Dutta, Chief Manager, (now-retired), Central Bank of India, Aurangabad, P.S.- Aurangabad, District- Aurangabad, resident of 30/4, Attapara Lane, Post Office- Sinthee, P.S. Baranagar, Kolkata- 700050.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rakesh Kumar Singh, aged about 52 years, son of Late Birendra Kumar Singh, resident of Mohalla-New Area, Aurangabad, P.S.- Aurangabad, District- Aurangabad (Complainant).

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha, Sr. Advocate Mr. Ajay Kumar Sinha, Advocate Mr. Ajit Kumar Sinha, Advocate Ms. Manini Jaiswal, Advocate
For the Opposite Party/s	:	Mr. APP Mr. Vinay Mistri, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 10-01-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 08.08.2017 passed by the Additional Chief Judicial Magistrate, VI, Aurangabad, in Complaint Case No.259 of 2017/ Trial No.1513 of 2017 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 406, 420 Indian Penal Code.



2. Opposite Party No.2 has appeared after issuance of notice and has filed Counter Affidavit.

3. Opposite Party No.2 has stated in para 8 of the Counter Affidavit that Opposite Party No.2 prays before this Court that the petitioners may be directed to resolve the issue with regard to arrears of rent so that entire litigation between the parties could be ended for the ends of justice.

4. Counsel for the petitioners has submitted that, admittedly, Bank was tenant of the premises of the Complainant. But, the Bank has not been made party as accused in the Complaint Petition, rather, all the Senior Officers of the Bank have been made accused to harass them. Counsel for the petitioners has further submitted that from the contents of the Complaint Petition, it will be apparent that dispute between the parties is with regard to rent. The Complainant wanted enhancement of rent to which Bank did not agree and, ultimately, Bank intimated the Complainant by its letter dated 11.05.2015 (Annexure-4 to the Supplementary Affidavit) about the decision of the Bank in respect of vacating the premises on getting alternate premises. Thereafter, the Bank vacated the premises on 30.11.2016 vide letter dated 02.06.2016 (Annexre-5 to the Supplementary Affidavit).

5. Counsel for the petitioners has further submitted



that, in fact, vacant possession of the premises was given to the Complainant on 30.11.2016. The Complainant after vacating the premises by the Bank filed instant Complaint on 03.04.2017 for the offence under Section(s) 406, 409, 420, 506, 120-B Indian Penal Code.

6. The Court below after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 406, 420 Indian Penal Code.

7. The petitioners have enclosed Solemn Affirmation of the Complainant and the statement of one witness, who has been examined during enquiry. The Complainant in Solemn Affirmation and the witness during enquiry have stated before the Court about the dispute of rent between the Bank and the Complainant and the Bank vacated the premises without giving information to the Complainant.

8. In such manner, from perusal of the allegation as made in the Complaint Petition and the statement of witness recorded during enquiry including Solemn Affirmation of the Complainant, this Court finds that no criminal offence under Section(s) 406, 420 Indian Penal Code is made out against the petitioners. Nature of dispute is purely civil dispute.

9. Therefore, impugned order dated 08.08.2017 passed



by the Additional Chief Judicial Magistrate, VI, Aurangabad, in Complaint Case No.259 of 2017/ Trial No.1513 of 2017 along with entire criminal proceeding against the petitioners is hereby quashed.

10. The Opposite Party No.2-Complainant is, however, directed to file necessary representation before the Bank for payment of arrear of rent. The Bank upon filing of such representation will consider the same in accordance with law and dispose of the same expeditiously preferably within a period of three months from the date of filing of representation.

11. This application is, accordingly, allowed with observation made above.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	19-01-2018
Transmission Date	19-01-2018

