

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20546 of 2015

Arising Out of PS. Case No.-1709 Year-2012 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Ashok Pandey @ Ashok Kumar Pandey Son of Rajbanshi Pandey, Resident of Village / MOhalla - I.T.I. Colony, East Kargahiya, P.S. - Bettiah (Muffassil), District - West Champaran at Bettiah (Bihar) ... Petitioner

Versus

1. The State of Bihar
 2. Gayatri Devi, Wife of Gyani Mahto, Resident of Village - Dhamniha, P.S. - Sathi, District - West Champaran at Bettiah ... Opposite Parties
- =====

Appearance :

For the Petitioner : Mr. Rakesh Kumar, Adv.
For the Opposite Parties : Mrs. Asha Kumari, APP

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 28-03-2018 Heard the parties.

Allegation against the petitioner is with regard to withdrawal of a sum of Rs.24000/- to be payable to the beneficiary, namely, the complainant, in pursuance to the Indra Awas Yojna Scheme. It is alleged that the Mukhiya and the petitioner, Secretary of the Gram Panchayat have withdrawn the money fraudulently from the Bank.

Learned counsel for the petitioner invites my attention to the supplementary affidavit filed in the matter on 12th of May, 2015, and the certificate issued by the Bank vide Annexure 6 to say tht the amount was not paid to the present petitioner. The question whether the amount was received by the petitioner from the Bank is a question of fact and the material produced along with the supplementary affidavit as



Annexure 6 is an evidence in favour of the petitioner given by the Bank.

However, the veracity and admissibility of this evidence which is based on affidavit cannot be considered or adjudicated in this proceeding under Section 482 of the Criminal Procedure Code. The petitioners may place these evidences before the Court below and seek for discharge and it is for the trial Court to examine the evidence. This proceeding under Section 482 of the Criminal Procedure Code is based on the aforesaid defence of the petitioners and evidence adduced on the ground of supplementary affidavit, it is not proper to discharge the petitioner. Interest of justice would be met in case the petitioners move before the trial Court and the trial Court, on enquiry, may proceed in accordance with law.

Granting the aforesaid liberty to the applicants, the matter stands **disposed off**.

(Rajendra Menon, CJ)

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