IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.3734 of 2015

Arising Out of PS. Case No.-1746 Year-2013 Thana- PATNA COMPLAINT CASE District-Patna

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Mr. Aditya Puri, Managing Director, H.D.F.C Bank, Bank House, Senapati Bapat Marg, Lower Parel, Mumbai-400013

... ... Petitioner/s

Versus

1. The State of Bihar
2. Mr. Uttam Kumar, S/O Srikant Singh, Main Police Line, Bansh Ghat, P.O-G.P.O, P.S-Buddha Colony, Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Rana Vikram Singh, Advocate
	:	Mr. Dayanand Singh, Advocate
For the State	:	Mr. Nawal Kishore Prasad, APP
For O.P. No.2	:	Dr. Anshuman, Advocate
	:	Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT
Date : 19-07-2018

Heard learned counsel for the petitioner and the learned APP for the State.

2. This application has been filed for quashing the order dated 16.07.2014 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1746(C) of 2013 taking cognizance of the offence under Sections 406/34 of the I.P.C.

3. The brief fact as alleged in the complaint is that the complainant-opposite party no.2 had taken gold loan Rs 26,900/-

from the HDFC Bank, Patna Branch and has placed three gold jewelleries, one chain and two ear rings, valued of the same amount and it is alleged by the complainant that all the officials of the HDFC right from the Managing Director to the Branch Manager conspired and misappropriated as the complainant went to the bank on 18.05.2018 to deposit the money but it was found that the jewelleries were already sold by the Bank and the loan amount was realized without giving information to the complainant.

4. Learned counsel for the petitioner submits that it is not a case of breach of trust. The complainant did not pay the loan amount within the stipulated period as per the agreement and as per the terms and conditions of the agreement giving notices as per the banking rules and in order to settle the loan amount the jewellery of the complainant was auction sold and the loan amount was realized and excess remaining amount of Rs 3011.31/- paise remained after the adjustment so Managers Cheque was issued in the name of the complainant, so the facts levelling accusation itself does not disclose or constitute an offence comprising breach of trust rather the complainant became defaulter in paying the loan so the loan amount given by the Bank was realized after auction selling the jewellery kept as security. Moreover the petitioner is the Managing Director of the HDFC Bank and at the relevant point of time, he was posted in the Head Office, Mumbai and the entire transaction was done at the

local branch level Patna and the local Manager was the sanctioning authority of loan. However, considering the case of the other officials of the bank, the cognizance order with respect to them was earlier quashed by the court vide order dated 11.12.2017 passed in Cr. Misc No. 3108 of 2015.

5. Learned counsel appearing on behalf of the complainant submits that no notice was given to the complainant and jewelleries were sold.

6. Having considered the entire accusation part as levelled in the complaint, the Court is of the considered opinion that taking into entire facts constituting accusation in the complaint does not contain ingredients of breach of trust. The complainant, loanee of the Bank was granted loan under the Gold Loan Scheme keeping jewellery as security and on account of being defaulter as per term and condition of the loan and not paying the loan amount within the stipulated period in such situation as per the banking rules, terms and conditions of the agreement following all formalities, loan amount was adjusted after auctioning the jewellery kept in security and for remaining excessive money after adjustment cheque was issued in the name of the complainant so no *prima facie* case of breach of trust under Section 406 of the Indian Penal Code is made out against the petitioner, hence the impugned order taking cognizance dated 16.07.2014 passed by the Judicial Magistrate, 1st Class, Patna in

Complaint Case No. 1746(C) of 2013 and subsequent criminal proceeding in the matter is hereby quashed.

7. The application stands allowed.

(Arun Kumar, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2018
Transmission Date	02.08.2018