

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11651 of 2012

Arising Out of PS.Case No. -0 Year- Thana -null District- WESTCHAMPARAN(BETTIAH)

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1. O.P.Verma son of Late Sharad Chandra Verms, R/o- village- Parsauni Kishun, P.O.- Parsauni Kisun, P.S.- Pipra, District- East Champaran, at present posted as Chief Manager State Bank of India (A.D.B.), Araria.
 2. R.C. Bhushan son of Shashi Bhushan Prasad, R/o- village- Ballughat, P.O.- and P.S.- Muzaffarpur, District- Muzaffarpur, at present posted as Chief Manager, State Bank of India, (R.C.P.C.) Motihari, (East Champaran).

.... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Bharat Prasad Gupta, Son of Raghunath Sah, R/o- Mohalla- Supriya Cinema Road, Ward No. 24, Bettah, P.S.- Bettiah Town, District- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Verma, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

CAV JUDGMENT

Date: 11-04-2018

Heard learned counsel for the parties.

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing of order dated 09.12.2011 passed by the learned Chief Judicial Magistrate, Bettiah (West Champaran) in Complaint Case No. 2372C of 2011(Trial No. 193 of 2012) whereby the learned court below took cognizance against the petitioners under Sections 341, 323, 406, 420, 379 and 506 of the Indian Penal.

The brief facts of this case is that the complainant and his wife namely Anita Gupta applied for housing loan in the State



Bank of India (A.D.B.) Bettiah (West Champaran) and accordingly the loan was sanctioned and an amount of Rs. 2,97,000/- has been disbursed to the complainant in different installment on different dates but a wrong entry of Rs. 3,00,963.16 in place of loan amount Rs. 2,97,000/- has been made in the account of the petitioner by the petitioner No.1 namely, O.P. Verma. It has further been alleged that on the basis of wrong entry of the loan amount, petitioner No.2 namely, R.C. Bhushan credited interest with fine in the account of the complainant for realizing of excess money from the complainant. Upon being so, the complainant made a written complain to G.M. S.B.I., Patna. It has further been alleged that the complainant approached to the R.K. Kushwaha, the then Branch Manager of S.B.I. (A.D.B.), Bettiah for redressal of his grievance on several occasions but the Manager never entertained him and on 24.09.2011 the Manager misusing the power of the said post abused and pushed the complainant and taken Rs. 5000/- from the pocket of the complainant and also threatened him that if he will complain to higher official, he will be burdened by excessive interest and the his house will be put on auction and also demand illegal money of Rs. 20000/- within ten days. Being aggrieved, the complainant went to the local police but the police also not entertained him. Hence, the complainant left with no option lodged



the complaint case.

Learned counsel for the petitioners has submitted that the petitioners, being the officials of Bank, are innocent and have not committed any offence. As a matter of fact, a housing loan of Rs. Rs. 2,97,000/- was sanctioned in favour of the complainant-O.P. No.2 on 12.03.2003, which was said to be repayable along with interest @ 9.50% within a period of five years @ Rs. 8000/- per month and the complainant was making repayment of the loan as per the loan agreement but since after 28.03.2008, the complainant-O.P. No.2 stopped making repayment of loan and started raising objection on the calculation of the interest. It has further been submitted that the when the officials of the Bank put pressure for repayment of the loan on the complainant in terms of the agreement, the instant complaint petition was filed against the petitioners by making bald allegation of abusive language and physical assault. The matter relates to computing of loan amount and interest, thereof, as per the agreement between the parties and for that the petitioners cannot be liable to be punished by initiating criminal proceeding. Moreover, it is relevant to point out here that despite several notices issued by this Court to the O.P. No.2, he has chosen not to appear before this Court in order to contest the matter, therefore, the approach of the O.P. No.2 itself shows his mala fide intention to



harass the petitioners. On the above ground, it is submitted that the cognizance order dated 09.12.2011 passed by the learned Chief Judicial Magistrate, Bettiah (West Champaran), is bad in law and is fit to be quashed.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioners and the court below after going through the materials available on record has found a prima facie case against the petitioners and rightly taken cognizance for the offences under Sections 341, 323, 406, 420, 379 and 506 of the Indian Penal Code. Therefore, the order taking cognizance does not require any interference.

From perusal of the material on record and looking into the facts of the case, it appears that admittedly a housing loan of Rs. Rs. 2,97,000/- was sanctioned in favour of the complainant-O.P. No.2 on 12.03.2003, annexure-2, and the same was repayable along with interest @ 9.50% within a period of five years @ Rs. 8000/- per month as per the loan agreement, therefore, the dispute appears to be in relation of computation of the interest over the loan amount as per the agreement between the parties. It also appears from perusal of the record that all the allegations leveled against the petitioners are ornamental and bald in order to harass the petitioners only. There is



no cogent material available on the record against the petitioner for their prosecution in the criminal proceeding. Moreover, despite several notices issued by this Court to the O.P. No.2, he has chosen not to appear before this Court in order to contest the matter, this fact shows the mala fide intention to harass the petitioners.

In view of the above, this Court does not find prima facie case against the petitioners to be prosecuted in the criminal proceeding, therefore, the order taking cognizance dated 09.12.2011 passed in Complaint Case No. 2372 C of 2011 (Trial No. 193 of 2012) passed by the Chief Judicial Magistrate, Bettiah (West Champaran) suffers from infirmity and deserves to be quashed and, is accordingly, quashed.

This application is, accordingly, allowed.

(Arvind Srivastava, J.)

Brajesh/-

AFR/NAFR	NAFR
CAV DATE	14.11.2017
Uploading Date	16.04.2018
Transmission Date	16.04.2018

