

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51521 of 2014

Arising Out of PS.Case No. -72 Year- 2007 Thana -KOTWALI District- PATNA

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1. Stock Holding Corporation of India Limited through its Assistant Manager, Ravishekhar, son of late Nagina Prasad, Assistant Manager, Stock Holding Corporation of India Limited, Bihar, 301305, Ashiyana Plaza, Budh Marg, P.S. Kotwali, Patna 800 001.
 2. Syed Faizur Rahman @ Fazi, son of Syed Hasibuo Rahman, r/o 401, Lochan Enclave, Lohiya Nagar, P.S. Kankarbagh, Town & Distt. Patna.
 3. Somya Kumar @ Somya Sukumar, son of late Prameshwar Prasad, r/o c/o Vivek Prasad, r/o 280, Patliputra Colony, P.S. Patliputra, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Geeta Yadav, wife of Surendera Yadav, r/o Gaiv, P.S. Rahui, Distt. Nalanda, presently residing at Quarter No. 1/262, Mathura Refinery Nagar, Thana Mathura, Distt. Mathura (U.P.).
3. Renu Prasad, wife of Devesh Chandra Prasad, r/o Prasad Niwas, Purani Good Hati, P.O & P.S. Chapra Nagar, Town, Chapra, Distt. Saran.

.... Opposite Party/s

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Appearance :

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| For the Petitioner/s | : | Mr. Abhay Shankar, Advocate.
Ms. Roona, Advocate. |
| For the Opposite Party No. 2 | : | Mr. Raju Giri, Advocate.
Mr. Santosh Kumar Mishra, Advocate. |
| For the Opposite Party No. 3 | : | Mr. Dineshwar Mishra, Advocate.
Mr. Surendra Mishra, Advocate.
Mr. Rohan P. Sahay, Advocate.
Mrs. Ankita Raj, Advocate. |

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-07-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 06.12.2010 passed by the learned Chief Judicial Magistrate, Patna, in Kotwali P.S. Case No. 72 of 2007 (G.R. No. 781 of 2007) by which the learned Magistrate took cognizance against the petitioner Nos. 2 and 3 along with other accused persons for the offences under



Sections 409, 420, 467, 468, 471, 472 and 120(B) of the Indian Penal Code.

2. Heard learned counsel for the petitioners, learned counsel for the opposite party Nos. 2 and 3.

3. It has been submitted on behalf of the petitioners that this petition has been filed by petitioner No. 1 because petitioner Nos. 2 and 3 are employees of petitioner No. 1. Petitioner No. 1 has filed the instant quashing application with intent to safeguard petitioner Nos. 2 and 3. The Opposite Party Nos. 2 and 3 have submitted that petitioner No. 1 has not been made accused in this case.

4. In the complaint petition filed by opposite party No. 2 it is alleged that she has filed complaint before Stock Holding Corporation of India Ltd. on 26.11.2006 regarding fraud in her Demat Account with Stock Holding Corporation of India Ltd. It was alleged that 900 shares of I.O.C.L. and four other companies' share have been stolen. Similarly, Renu Prasad (opposite party No. 3) informed the Manager, Stock Holding Corporation of India Limited, Patna, on 25.11.2007 that certain transactions through her cheque had been routed unauthorizedly and request was made to enquire into the matter confidentially.

5. Learned counsel for the opposite party Nos. 2 and



3 have submitted that no action has been taken after filing of written report before petitioner No. 1, then husband of opposite party No. 3 had filed a complaint before the Chief Judicial Magistrate, Patna, vide Complaint Case No. 3916 of 2007 on the basis of which Kotwali P.S. Case No. 30 of 2007 was registered against petitioner No. 1 i.e. M/s. Stock Holding Corporation of India Ltd., represented through Area Manager. Thereafter, petitioner No. 1 to save his skin and to protect petitioner Nos. 2 and 3, has filed the instant case against unknown vide Kotwali P.S. Case No.72 of 2007.

6. The police investigated the case and finding active involvement of petitioner Nos. 2 and 3 in the entire episode, submitted charge sheet against them along with other co-accused persons.

7. This Court is also unable to appreciate the conduct of petitioner No. 1 who, being Area Manager of Stock Holding Corporation of India Ltd., lodged First Information Report against unknown vide Kotwali P.S. Case No. 72 of 2007 and when after investigation, police submitted charge sheet against some of its employees, petitioner No. 1 has filed this quashing application on behalf of his employees (petitioner Nos. 2 and 3), against whom charge sheet has been submitted by the police after due investigation and thereafter cognizance has been taken by the learned Magistrate.

8. The learned Magistrate is only required to see



prima facie case at the time of cognizance.

9. Therefore, this Court does not find any illegality in the impugned order.

10. This Criminal Miscellaneous application is accordingly dismissed.

11. Petitioners are however given liberty to raise all the points as raised in this petition at appropriate stage of trial which will be disposed off by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	17/07/2018
Transmission Date	17/07/2018

