

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.20804 of 2015**

Arising Out of PS. Case No.-102 Year-2014 Thana- GANDHIMAIDAN District- Patna

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Santosh Kaluram Paigude @ Jhanna son of Late Kaluram Paigude resident of Dhankawdi, P.S.- Haweli, District- Pune (Maharashtra); presently residing at Rampur Jalalpur, P.S.- Dalsinghsarai, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saiyudu Kahtoon wife of Md. Rafique Alam resident of Village- Naubatpur-Tarbana, P.S.- Naubatpur, District- Patna.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Vinay Mistry  
For the Opposite Party/s : Dr. Rabindra Kumar APP

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL JUDGMENT**

**Date : 02-08-2018**

This petition under Section 482 Cr.P.C. has been filed for quashing the order dated 26.8.2014 passed by Judicial Magistrate 1<sup>st</sup> Class, Patna, in Gandhi Maidan P.S. case no. 102 of 2014, G.R. No. 1789 of 2014 by which learned Magistrate has taken cognizance for the offence under Sections 419,420,467, 468, 471 and 120B of the IPC against the petitioners and other accused persons.

Heard learned counsel for the petitioner and the State.

In the written report, it is alleged that informant deposited Rs. 100 in installments with Samruddha Jeevan Cooperative Society on promise by the society that she will be given the goat or money will be returned by which she can be able to purchase the goat. It is further alleged that the informant along with Shanaz Khatoun and Rinki Devi were made as the members of the society. She has been



asked to enroll further members for which they were to be paid commission. It is further alleged that she had enrolled 25 persons as members and had brought in Rs. 25,000/- as membership fee. It has further been alleged that in spite of the promise that they will be getting the stated live-stocks and commission, the accused persons of the Society deceived them and their money has also been defrauded. The informant and other members received nothing against the aforesaid promise.

Learned counsel for the petitioner has submitted that petitioner was working as Senior Executive- Purchase (Goats and Buffalo) from 26.8.2013 as per letter of appointment which is annexed as Annexure-2 to the petition. Learned counsel for the petitioner has further pointed out that informant has filed a petition in the court below stating therein, that she has no grievance against the Society.

The allegation in the written report was investigated by the police and the police, after finding the allegation correct submitted charge sheet in the case. Thereafter cognizance has been taken against this petitioner by the Court below on the basis of allegation in the written report and the materials available in the case diary. The petitioner has challenged the order taking cognizance solely on the ground that informant has filed a petition in the court below on 24.3.2014 to the effect that she has no grievance against the society whereas the written report was filed by the informant



before the police on 21.3.2014. The police even after filing of such petition in the court investigated the case and found the allegation correct against the petitioner and submitted charge-sheet. The Court below has by the impugned order dated 26.8.2014 taken cognizance against the petitioner after looking into the allegation in the written report and the materials available in the case diary. The learned Magistrate is only required to see *prima facie* case at the time of taking cognizance. Therefore, this Court does not find any illegality in the impugned order dated 26.8.2014 passed by learned Judicial Magistrate in Gandhi Maidan P.S. case no. 102 of 2014.

The Cr. Misc. petition is, accordingly, dismissed.

The petitioner is given liberty to raise all the points, as raised in this petition, either at the time of framing of charge or at the appropriate stage of trial which shall be considered by the learned court below in accordance with law without being prejudiced by this order.

**(Sanjay Priya, J)**

shyambihari/-

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