IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4127 of 2015

Arising Out of PS.Case No. -154 Year- 2010 Thana -KATIHAR District- KATIHAR

Navin Chandra Jha, Son of Late Bishwambhar Jha, Resident of Vishwakunj, Near Pani Tanki, Ishak Chak Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :
For the Petitioner/s : Mr. Shivpujan Sahay, Advocate.
For the opposite party No.2: Mr. Indrajit Kumar, Advocate.
For the State : Mr. J. Upadhyay, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT
Date: 06-08-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 13.2.2014 passed by the learned Chief Judicial Magistrate, Katihar, in Katihar P.S. Case No. 154 of 2010, G.R. No. 1133 of 2010 by which the learned Magistrate took cognizance against the petitioner and other accused persons for the offences under Sections 420, 465, 468, 471 and 120(B)/34 of the Indian Penal Code.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and State.

3. Learned counsel for the petitioner has submitted that petitioner is merely valuer of the property. He has no concern to check the genuineness of the document which has been produced by the borrower with respect to property in question. Counsel for the petitioner pointed out valuation report submitted by the petitioner in the Bank which has been enclosed as Annexure-3 wherein it is clearly mentioned that valuer is not responsible for the genuinity of any Title Deed or document related to the property under valuation as furnished by the borrower/banker. This valuation work is undertaken by the valuer based upon the request from Sr. Manager, Canara Bank. It has further been submitted that there is no any allegation that valuation done by this petitioner was incorrect. The alleged Title Deed which was submitted by the borrower in the Bank was found to be forged.

4. In the instant case there is allegation that Mr. Kakoli Banerjee and Nav Kumar Banerjee were partners/borrowers of the Canara Bank. They were running a partnership firm in the name and style G. Pharmaceuticals for the purpose of business of medicine. They were sanctioned loan facilities of cash credit limit of Rs.15,00,000/-. One Jai Raj Prasad Gupta became the personal guarantee of the aforesaid property. The borrowers have executed equitable mortgage by means of sale deed No. 7090 of land and building situated in Mauza Mirchai Bari, Thana No. 328, Tauzi No. 1239, Ward No. 09 (old) 33 (new) Plot No. 1168 (old) 274 (new), appertaining to Khata No.27, Plot No. 1168. The valuation of said property was assessed which comes to Rs.16,00,000/- as per the report of the Bank's approved valuer, NavinChandra Jha, (Chartered Engineer).

5. The informant has alleged that the aforesaid loan became NPA. The Bank has tried his level best to contact all the borrowers, partners and guarantor, but they were found absent. Afterwards, genuineness of the so called original sale Deed No. 7090 kept in the Bank meant for equitable mortgage, was verified and the same was found fake, forged and fabricated.

6. In this manner from the entire allegation in the written report it is apparent that borrower/Guarantor has submitted forged sale deed in the bank as collateral security meant for equitable mortgage. The petitioner has merely assessed the value of the property which was mortgaged by the borrowers on the basis of aforesaid sale deed. The petitioner has clearly mentioned in the aforesaid report which was submitted in the Bank (Annexure-3) that he is not responsible for any genuinity of the Title Deed or the document as furnished by the borrowers

7. In such circumstances, the impugned order dated 13.2.2014 passed by the learned Chief Judicial Magistrate, Katihar, in Katihar P.S. Case No. 154 of 2010, G.R. No. 1133 of 2010 along with the entire criminal proceeding against the petitioner is hereby quashed.

8. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	14/08/2018
Transmission Date	14/08/2018