

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42278 of 2014

Arising Out of Case No. -3113 Year- 2013 Thana - COMPLAINT CASE District- SARAN

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1. Mahendra Kumar Mohan, son of Late Manwendra Nath Rai, Manager Punjab National Bank, Hathua Market Branch, P.O. + P.S. Chapra Town, District Saran.
2. Yugeshwar Ram @ Yogesh Ram, son of Sukhdev Ram, Loan Officer, Manager Punjab National Bank, Hathua Market Branch P.O. + P.S. Chapra Town, District Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Ram Gopal Prasad, son of Late Raghunath Prasad, Resident of Mohalla Purani Garhati P.S. Chapra Town, District - Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prashant Kumar, Advocate.

For the Opposite Party/s: Mr. Ajay Kumar No. 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 17-01-2018

Heard learned counsel for the petitioners as well as
learned counsel for the O.P. No. 2 and the State.

2. The petitioners seek quashing of cognizance order dated 07.03.2014 passed by Judicial Magistrate, 1st Class, Chapra in Complaint Case No. 3113 of 2013 thereby taking cognizance of offence under Sections 500 and 177/34 of Indian Penal Code.

3. The brief fact giving rise to this case is that in the year 2004, complainant/O.P. No. 2 of the instant application had taken C.C. loan of Rs. Ten lacs from Punjab National Bank, Hathua Market Branch, Saran to run his business and at the request of complainant,



loan amount was increased to Rs. 20 lacs in the year 2006. In year 2008, bank started pressurising complainant to clear all loan amounts. On 01.12.2008, a notice was published by the bank in daily newspaper regarding putting the property, given in security against the loan for auction inviting tender from prospective purchasers and for taking its physical possession, bank also obtained order from the District Magistrate, Saran appointing the Sub Divisional Officer for giving possession. Complainant filed a writ application bearing CWJC No. 871 of 2012 before this Court and by interim order dated 30.01.2012, the Court directed not to take any coercive steps in the meantime on 23.09.2013 a news item was published that the complainant and his wife had defaulted Rs. 22 lacs of the bank.

4. Learned counsel appearing for the petitioners submits that no ingredient of offence of defaultation or giving any false information, under Sections 500 and 177 of Indian Penal Code, is made out even if the entire allegation is taken into entirety as it is. In fact, complainant was a C.C. loanee for purchasing goods for his business but his loan account turned to N.P.A. moreover all the goods purchased by the loan amount was also not found in the shop of the complainant rather he had sold those goods and had closed the shop leading to lodging of F.I.R. against him by the bank on 23.09.2013 as he defaulted the money of the bank, thereafter this complaint was



filed maliciously on 30.09.2013. Learned counsel submits that in fact by order dated 30.01.2012 passed in CWJC No. 871 of 2012, the Court had given interim relief not to take coercive steps, as complainant had accepted to deposit Rs. 15 lacs with the bank in two or three installments but the same was also not deposited hence this writ application was dismissed on 23.02.2016.

5. Learned counsel for the O.P. No. 2 submits that by publishing news against the complainant regarding defaultation of bank money, amounts to defamation so cognizance has rightly been taken by the Magistrate.

6. Having considered the rival submissions and on perusal of record, the Court finds that neither any ingredients of defamation nor ingredients of giving false information is made out against the petitioners who are bank officials. It is apparent that complainant was defaulter in depositing the loan amount as his loan account became N.P.A. thereafter all legal procedures were adopted by the bank to realize the amount. FIR was also instituted against him for misappropriation of bank amount and as submitted, complainant had not repaid the loan amount and the writ application filed by him for initiating a proceeding by the bank, was dismissed.

7. Section 499 defines defamation, which reads as follows:



“499. Defamation.- Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.”

8. The essential ingredients to attract the offence of defamation is, any imputation made by a person by spoken or written or by any sign or visible representations or makes or publishes any imputation which means by using word or by sign or visible representation attributing someone with something that brings discredit to him or her to harm the reputation of the person concerned. However, there is no such imputation by the bank officials, the petitioners against the complainant as the C.C. loan amount of the complainant turned into N.P.A., therefore, legal procedure was adopted by the bank to realize the amount and the petitioners being bank officials followed the rules of the bank, so no ingredients of the offence under Sections 500 and 177/34 of I.P.C. in which cognizance has been taken in the present case is made out, rather the complaint is found malicious in nature in order to wreck personal vengeance against bank authorities taking legal action against a defaulter.

9. Therefore, the entire criminal proceeding inclusive of the cognizance order dated 07.03.2014 passed by the Judicial



Magistrate, 1st Class, Chapra in Complaint Case No. 3113 of 2013 is hereby quashed. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.01.2018
Transmission Date	31.01.2018

