

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No 21732 of 2014

Arising Out of PS.Case No. -1 Year- 2012 Thana -GOPALGANJ CITY District- GOPALGANJ

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1. Amit Kumar Shrivastava son of Anil Kumar Shrivastava,
2. Anil Kumar Shrivastava son of Late Mankeshwar Prasad Shrivastava, Both
residents of Mohalla - Jangalia Ward No. 15, P.S. - Thawe, District - Gopalganj.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr N K Agrawal, Sr Advocate with
Mr Vijay Anand, Advocate
For the Opposite Party/s : Ms Soni Srivastave,
M/s Indrajeet Bhushan & Manish Kr, Advocates

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 11-04-2018

Heard learned counsel for the petitioners, State and
Opposite Party No 2.

2 This application has been filed for quashing the order dated 08.01.2013 passed by Chief Judicial Magistrate, Gopalganj in Gopalganj Police Station Case No 1 of 2012 taking cognizance of the offences registered under Sections 420, 406, 467, 468, 384, 386 and 120B of Indian Penal code.

3 Learned counsel for the petitioners has submitted that the petitioners have been implicated in this case on extraneous considerations and on the basis of prima facie false accusation since the instant proceedings are counterblast to Complaint Case No 2944



of 2011 which has been lodged by the petitioners against the informant of the instant case in which they have been made accused. He further submits that from perusal of the Power of Attorney, it would be evident that the informant and executant of the Power of Attorney were well known to each other and, as such, the petitioners have no role to play in between the two parties wherein cheating and forgery is alleged.

4 Counsel for Opposite Party No 2 draws attention of this Court towards the allegations in the first information report (for brevity, *FIR*). It is pointed out that specific allegation has been made against the petitioners of inducing and facilitating the fraudulent transaction. Specific allegations have also been made in the *FIR* regarding the petitioners having received Rs 26 lacs being part of the consideration money in course of alleged fraudulent transaction. It is also submitted that during course of investigation, substantial material has come in the case diary to show petitioners' complicity as it has been found in the investigation that the signatories on the Power of Attorney were impersonators with whom the petitioners were having friendly relations.

5 Be that as it may, these are allegations and defence of the petitioners which are to be examined in the trial. Therefore, I refrain from expressing any opinion on the claim of either parties.



However, in view of the specific allegation made in the FIR, this Court would observe that there was prima facie sufficient material for the Magistrate to arrive at a conclusion regarding taking cognizance against the petitioners in the instant case. Regarding the defence of the petitioners, it would be open to the petitioners to raise these issues at an appropriate stage which shall be considered in accordance with law without being prejudiced by the rejection of this application.

6 This Court finds no reason to exercise jurisdiction under Section 482 of Criminal Procedure Code to quash the proceedings at the initial stage. This application is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
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