

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2457 of 2013

Arising Out of PS. Case No.-260 Year-2008 Thana- DANAPUR District- Patna

=====

Arun Kumar Srivastava S/O Late Kishori Prasad Tata Motors Finance Ltd.,
3rd Floor, Adharshila Complex, Gandhi Maidan, Patna At Present Posted As
State Head -North East, Tata Motors Finance Ltd., Second Floor, Godrej
Building, Ulubari, G.S. Road, Guwahati, Assam.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Ranjit Kumar S/O Sri Balle Rai Sakin Sultanpur, P.S. Danapur, District Patna.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Siwhai, Advocate.
For the State	:	Dr. Rabindra Kumar APP
For the Opp. Party No.2	:	Mr. Gopal Govind Mishra, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 22-06-2018

Heard learned counsel for the petitioner, learned counsel
for the informant and learned counsel for the State.

This petition under Section 482 Cr.P.C. has been filed for
quashing the order dated 22.1.2010 passed by learned A.C.J.M.
at Danapur in Danapur P.S. Case No. 260 of 2008 (G.R. No.
2160 of 2008) whereby the learned Magistrate has taken
cognizance against the petitioner under Sections 467, 468, 420,
406, 379 and 34 of the I.P.C.



Learned counsel for the petitioner has submitted that other two accused persons have also moved this Court for quashing the cognizance order which has been allowed by a coordinate bench of this Court vide order dated 29.09.2015 passed in Cr. Misc. No. 15567 of 2010. Learned counsel for the petitioner has further submitted that there was hire-purchase agreement and the vehicle was taken into possession by the petitioner who was the financier because there was dues of the installment. It is further submitted that until loan is finally liquidated, or last instalment is paid, the financier is competent to take possession of the vehicle during that period.

Learned counsel for the informant has appeared and submitted that he is not denying that the vehicle was under hire-purchase agreement with Tata Motors Finance Ltd. Petitioner was the Branch Manager of Tata Motors Finance Ltd. It is further submitted that the complaint was sent to the Police Station under Section 156(3) Cr.P.C.

The complainant has alleged that he had taken a loan from Tata Motors Finance Ltd. for purchasing City Rider Bus bearing registration no. BR-01AP-3496. The loan amount of Rs. 4,75,000/- was sanctioned @ Rs. 6.5% per annum. The loan amount with interest was to be repaid in four years. The



complainant was making payment of installments as per agreement to accused nos. 2 and 3. The last installment was paid in January 2008. It is further alleged in the complaint that on 01.02.2008 without informing the complainant, the accused persons forcefully seized the vehicle of the complainant from Saguna More, Patna. The complainant learnt that in conspiracy with other accused persons document was prepared by the accused persons in which interest rate was shown as 8.84% and payment of one installment of Rs. 11,000 was not credited and the illegal burden of Rs. 9,000 was imposed upon the complainant and the loan amount has been increased.

From the narration of the allegation made in the complaint petition it appears that it is a matter of pure civil dispute. There was hire-purchase agreement between the complainant and the Tata Motors Finance Ltd. The complainant has alleged in the complaint petition that he has paid the entire installment and rate of interest was illegally enhanced to 8.84%, whereas the same at the time of sanctioning of loan was 6.5%. These are all disputed questions of facts which can only be properly adjudicated in civil suit. There is no ingredient of a criminal offence for the allegation as made by the complainant in the complaint petition. Therefore, the impugned order dated



22.01.2010 passed by learned A.C.J.M. at Danapur in Danapur
P.S. Case No. 260 of 2008 (GR No. 2160/08) along with entire
criminal proceeding against the petitioner is hereby quashed.

This Cr. Misc. petition is, accordingly, allowed.

(Sanjay Priya, J)

shyambihari/-

AFR	AFR
CAV DATE	N/A
Uploading Date	02.07.2018
Transmission Date	02.07.2018

