

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6292 of 2015

Arising Out of PS. Case No.-81 Year-2012 Thana- BENIPATTI District- Madhubani

Dilip Kumar Gupta Son of Sri Umesh Prasad Gupta, Resident of Village -
Karpuri Tola Chauk, P.S. - Pupari, District - Sitamarhi.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Satyanarayan Sah, Son of Bhubneshwar Sah, Resident of Village - Behta,
P.S. - Bennipatti, District - Madhubani.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Adv
For the Opposite Party/s	:	Mr.Ratnakar Jha, Adv
For the State	:	Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 12-07-2019

Heard learned counsel for the parties.

2. The petitioner has challenged the order of cognizance dated 25.02.2013 passed in connection with Bennipatti P.S.Case No.81 of 2012 whereby the petitioner has been asked to face trial for offences under Sections 420,406,323 and 504/34 I.P.C.

3. According to FIR, the complainant as well as the petitioner were in business of grains. The complainant had advanced to the petitioner Rs.One Lac through cheque for purchase of 16 tuns of rice. The complainant had further advanced of Rs.50,000/- in cash. However, the grains were not supplied and the money was misappropriated. When the complainant and others



went to demand for refund of the money, the petitioner and others allegedly abused and assaulted and committed theft of cash from the cash box. Further allegation is of firing in the air and commission of theft of ornaments.

4. Learned counsel for the petitioner submits that father of the petitioner had also lodged a criminal case against the informant of this case which was earlier in time and just for business dispute, false case has been lodged. The prosecution allegation is highly unbelievable in the facts and circumstances of this case and criminal prosecution against the father of the petitioner has already been quashed by a Coordinate Bench of this Court vide Annexure-3.

5. Learned counsel for the informant opposed the prayer of the petitioner on the ground that prima facie case is made out against the petitioner on the basis of material collected during investigation.

6. Annexure-3 reveals that the criminal prosecution was quashed because no offence was disclosed against Umesh Prasad Singh, the father of the petitioner. So far present petitioner is concerned, prima facie offences are disclosed in the FIR and statement of the witnesses before the police. Hence, I am not inclined to interfere with the impugned order.



7. Accordingly, this application stands dismissed.

8. If the charges have not been framed as yet, the petitioner would be at liberty to raise his grievance at the stage of charge and the learned court below shall examine individually the offences and its ingredients against the petitioner and thereafter shall pass necessary order.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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