

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2665 of 2017

Arising Out of PS. Case No.-1785 Year-2015 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Ramesh Chandra Chaubey @ R. C. Chaubey @ R. Chaubey S/o Late Badrai Nath Chaubey, R/o Mohalla- Mogalpara Kath Ka Pool, P.S.- Khajekala, District- Patna. At Present Branch Manager, UCO Bank, Bettiah Branch, District- West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Mohd. Nasim, S/o Late Mohd. Yasin Khan, R/o Ganj No.-1, Ward No.-16, P.S. Bettiah Town, Distt.- West Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Kumar Pandey, Adv.
For the Opposite Party/s : Mr.Sri Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 09-05-2019 Supplementary affidavit has been filed on behalf of

petitioner, taken on record.

Heard learned counsel for the petitioner, learned APP

along with learned counsel for the O.P. No.2.

It is needless to say that O.P. No.2 had borrowed loan

from the bank after depositing the title deed. Because of the fact

that O.P. No.2 became defaulter on account thereof, he was

lastly noticed to pay the amount appertaining to Rs.4,21,817/-. It

is further evident from the complaint petition itself that

aforesaid amount was paid at different occasion but, last

installment was on 16.03.2015. Then thereafter, there was

insistence at the end of O.P. No.2 to return back the title deed



along with no dues certificate while, as per calculation the bank officials shown Rs.53,050/- still due and in the aforesaid background, Complaint Case No.1785(c)/2015 has been filed inquired into and by the order dated 28.04.2016 petitioner along with other has been directed to face trial for an offence punishable under Sections 406, 504 of the IPC by the learned ACJM, IInd, West Champaran at Bettiah which was subject matter of this petition.

It is needless to say that none of the accused persons has involved themselves in their individual capacity. Borrowing of loan has not been denied. Notice dated 17.11.2014 is also not under controversy. The amount of Rs.4,21,817/- up till the date of notice dated 04.11.2017 is also not under challenge, and in likewise manner, mode of repayment. The controversy is with regard to calculation for the period in between 17.11.2014 to the last day of payment dated 16.03.2015.

It has been submitted at the end of the learned respective counsels that the dispute has been resolved under Priligation Case No.2/2014 (Lok Adalat) and in pursuance thereof, no due certificate has already been issued in favour of O.P. No.2 along with return of the original title deeds.

Apart from the aforesaid development, in the facts



and circumstances of the case, summoning of petitioner for an offence punishable under Section 406/504 of the IPC, is not at all justifiable because of the fact that there happens to be no personal/individual entrustment to the petitioner rather, he acted as a representative of the bank from whom the O.P. No.2 had borrowed the loan and the money whatever been deposited at the end of the O.P. No.2 was against the borrowed amount along with interest which was duly acknowledgeable in the eye of law.

Consequent thereupon, the order impugned is set aside. Petition is allowed however to the interest of the petitioner, only.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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