

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36632 of 2014

Arising Out of PS. Case No.-119 Year-1998 Thana- MADHEPURA District- Madhepura

Ashok Kumar Singh Son of Late Upendra Narayan Singh resident of village-
Chhapkahi, P.O.- Basbitti, P.S. District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Yatindra Kishor Kushwaha, Managing Director, Madhepura-Supaul Central
Co-operative Bank Ltd., Madhepura

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate
For the State : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 18-01-2019

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. Despite notice having been served on opposite party
no. 2, nobody appeared on his behalf when the matter was taken
up and heard.

3. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 for the following relief:

*“That this is an application for quashing the
order dated 11.07.2012 passed by the learned
S.D.J.M. Madhepura in G.R. No. 481/98
(Madhepura P.S. Case No. 119/1998 under
Section 409/420/467/468/120B of Indian Penal
Code) as against the petitioner since no case is
made out against the petitioner with a prayer to
quash the aforesaid order as against the
petitioner.”*



4. The allegation against the petitioner is that the loan of Rs. 3,38,000/- sanctioned to him for buying of a Tata 609 Maxi, but the Bank having issued a cheque in the name of the Dealer, the money neither reached the Dealer nor was returned to the Bank and, thus, misappropriated by the accused, including the petitioner, and further that without the petitioner having made a fixed deposit for Rs. 60,000/-, such loan could not have been sanctioned.

5. Learned counsel for the petitioner submitted that the present criminal prosecution against him is totally misconceived. It was submitted that though the petitioner was sanctioned loan but the amount was sent directly to the Dealer i.e., Mithila Motors, in which the petitioner had no role. It was further submitted that even in the sanction of the loan, it was done by the authorities concerned and not the petitioner. Learned counsel submitted that the Sub-divisional Audit Officer, Co-operative Societies, Saharsa had found in his enquiry that it was the then Branch Manager who had committed the crime and in fact one of the co-accused had admitted that the vehicle was wrongly never delivered to the petitioner. It was submitted that the audit report dated 05.09.1998 did not find any criminal complicity of the petitioner. Learned counsel submitted that neither the money ever came to the



petitioner nor the vehicle and, thus, he cannot be charged with any embezzlement of any fund.

6. Learned A.P.P. fairly submitted that neither the loan amount nor the vehicle was given to the petitioner.

7. Having considered the aforesaid, the Court finds that a case for interference has been made out. When in the official audit, it has been found that there is no role of the petitioner and the then officer admits about the petitioner being wrongly shown to have been given the vehicle and the audit report holding the others responsible for such act, clearly allowing the petitioner to face trial, would be an abuse of the process of the court.

8. Accordingly, the application is allowed. The entire proceeding arising out of Madhepura P.S. Case No. 119 of 1998 corresponding to G.R. No. 481 of 1998, including the order taking cognizance dated 11.07.2012, as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J)

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