IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17656 of 2015

Arising Out of PS. Case No.-993 Year-2012 Thana- MADHUBANI COMPLAINT CASE District- Madhubani

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Rajani Kant Mishra, S/o Late Suryakant Mishra, resident of vill. - Bhawanipur, P.S. Sakri, Distt. - Madhubani

... ... Petitioner/s

Versus

1. The State of Bihar
2. Shravan Kumar Sahu, S/o Bhola Sahu, resident of vill. - Banki, P.S. Madhepur, Distt. - Madhubani

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Mishra, Advocate
Mr. Nityanand Jha, Advocate
Mr. Nityanand Jha

For the Opposite Party/s : Mr. T.P. Mandal, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 05-07-2019

Notice was personally served on the complainant-opposite party no. 2-Shravan Kumar Sahu, however, no one appears. Heard learned counsel for the petitioner and for the State of Bihar.

2. The petitioner has sought for quashment of order dated 29.01.2015, passed by the learned Judicial Magistrate, 1st Class, Jhanjharpur, Madhubani in Complaint Case No. 993 of 2012/E.R. No. 63 of 2012.

3. By the impugned order cognizance has been taken against the petitioner for offences under Sections 420, 406 and

120(B) of the Indian Penal Code and summons has been issued to face trial.

4. According to complaint petition, the complainant had applied for grant of Kisan Credit Card Loan to the bank where the petitioner was Manager. However, no amount was paid to the complainant. When the bank sent legal notice for refund of Rs.26,317/-, the complainant visited the Bank and inquired from the present Bank Manager, who reported that entire forgery has been committed by the then Branch Manager (the petitioner). Thereafter, complaint was lodged.

5. Submission of learned counsel for the petitioner is that the learned court below had called for relevant papers from the bank and some of them, which are essential for this purpose, have been annexed with this application, under Section 482 Cr.P.C.

6. Submission is that the complainant is a literate person. He had filed an application on 04.08.2012 for grant of Kisan Credit Card Loan. His application was considered and thereafter other formalities including filling up loan application form were completed vide Annexure-8. The loan was sanctioned vide order at page 47 of the petition whereunder total amount of Rs.40,000/- (forty thousand) loan was sanctioned. Out of that Rs.20,000/- (twenty thousand) was to be paid during Kharif crop and remaining Rs.20,000/- (twenty thousand) at the time of Rabi crop. The complainant withdrew the first installment through withdrawal form signed by the complainant and the amount was received by the complainant. When the complainant did not refund the installment of loan and notice was sent by the bank, as a reaction a false case has been lodged.

7. Since *prima facie* material is there to substantiate sanction of loan, disbursement of 50 per cent of the same and withdrawal of the same by the complainant, hence, apparently, the criminal prosecution against the petitioner amounts to an abuse of process of the Court. Accordingly, the impugned order and the subsequent proceeding thereof stands quashed and this application stands allowed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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