

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5556 of 2015**

Arising Out of P.S. Case No.-78 Year-2013 Thana- GARDANIBAGH District- Patna

Sanand Chandra Rakesh @ S. C. Rakesh, Son of Late Baidhnath Prasad Singh, Resident of Anand Vihar, P.S.-Gardanibagh, P.O.-Anishabad, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rakesh Kumar Singh, Son of Late Jagmohan Prasad Singh P.S.-Singhiya, District-Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Mr. Rajeev Ranjan and Mr. Apul, Advocates
For the State	:	Mr. Chandra Bhushan Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 14-05-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. Despite service of notice on opposite party no. 2 and name of learned counsel also appearing in the cause list, nobody was present 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 application is being filed under inherent jurisdiction of this Hon’ble Court for quashing of the order dated 20.08.2013



whereby cognizance under section 406, 420, 384/34 of the Indian Penal Code is taken against the petitioner in connection with Gardanibagh P.S. Case No. 78 of 2013 which was registered under section 406, 420, 384 of the Indian Penal Code and further to quash the entire prosecution of Gardanibagh P.S. Case No. 78 of 2013 pending before the learned Judicial Magistrate 1st Class, Patna.”

4. The allegation against the petitioner is of inducing the opposite party no. 2-complainant to invest in a common pool of fund with the assurance that twice the amount deposited would be returned but even after long period and request to return the money, the same has not been done.

5. Learned counsel for the petitioner submitted that the dispute is between the parties who carry on business and by way of an arrangement, a common kitty fund was created in which money was to be deposited by the persons and one person was given the entire amount from time to time. However, learned counsel submitted that without going into merits, the matter has also now been compromised between the parties and a joint compromise petition has been filed before the Court below on 02.04.2013 in which the petitioner as well as the opposite party no. 2 and their counsel have also signed. Learned counsel submitted that since Section 384 of the Indian Penal Code under



which also cognizance has been taken is non compoundable, this Court may interfere in the matter.

6. It was submitted that the Hon'ble Supreme Court has also held that even in non compoundable matters, if the offence is entirely personal in nature, not affecting peace and tranquility and there is compromise, the High Court ought to interfere under its inherent power under Section 482 of the Code.

7. For such proposition, learned counsel relied upon the decisions of the Hon'ble Supreme Court in **Yogendra Yadav vs. State of Jharkhand** reported as **2014(4) PLJR (SC) 518**; **J. Ramesh Kamath vs. Mohana Kurup** reported as **2016(3) PLJR (SC) 62** and **Central Bureau of Investigation vs. Sadhu Ram Singla** reported as **2017(2) PLJR (SC) 124**.

8. Learned APP fairly submitted that in view of the law laid down by the Hon'ble Supreme Court and the materials on record, the matter having been compromised, the Court may grant indulgence.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out.

10. As has rightly been submitted by learned counsel for the petitioner, the dispute is purely personal and related to money



matters, which by itself are no matters to be settled in a criminal proceeding. Further, reliance has rightly been placed on the decisions of the Hon'ble Supreme Court in **Yogendra Yadav** (*supra*) **J. Ramesh Kamath** (*supra*) and **Central Bureau of Investigation vs. Sadhu Ram Singla** (*supra*), where it has been held that under Section 482 of the Code, the High Court should interfere in matters like the present, which are entirely personal and do not affect public peace and tranquility and there is a compromise.

11. Accordingly, the application is allowed. The entire criminal proceeding relating to Gardanibagh PS Case No. 78 of 2013, pending before the Court below at Patna, including the order dated 20.08.2013, by which cognizance has been taken, stands quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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