IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57905 of 2018

Arising Out of PS. Case No.-913 Year-2014 Thana- COMPLAINT CASE District- Araria

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Anuranjan Singh S/o Late Dharveer Singh Retired Cashier U. Co. Bank Rampur), Resident of Shivpuri, Ward No.9, P.S. and District- Araria.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Rajendra Yadav, S/o Late Sugai Yadav, Resident of Village- Diyari, P.S. and District- Araria.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Abhijeet Gautam
For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

7 06-02-2019 Heard learned counsel for the petitioner, learned counsel for the complainant-opposite party no. 2 and learned APP for the State.

The petitioner is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

The prosecution case as per the complaint petition filed by Rajendra Yadav on 09.04.2014 before learned Chief Judicial Magistrate, Araria is to the effect that on 13.05.2009 the complainant deposited Rs. 1,00,000/- out of the sale proceeds of the land of his wife's share in his Savings Account No. 1609/07 at UCO Bank, Rampur Branch, Araria. The money was given to the petitioner being the Cashier of the Branch in presence of co-villagers Madan Yadav and Jitendra Yadav. Certain money was deposited in the KCC account and the counter foil was kept in the passbook and the passbook was kept by the petitioner for up-dating the same. After 5-6 days when the complainant demanded the passbook and counterfoil. Up to 18.10.2009, Rs.64,621/- was in the account of the complainant after depositing money in the loan account. It is further alleged that when the complainant asked for passbook, the same was withheld by the petitioner on the pretext of computerization in the branch. After six months when the complainant went to withdraw money, he was conveyed that there was no money in his account, thereafter, the petitioner gave him Ten Thousand Rupees and promised to return the balance amount. When the money was not returned, the complainant made complaint to the higher officials.

It is submitted by learned counsel for the petitioner that the complainant never produced the counter foil/deposit voucher of deposit to suggest that the deposit of Rs.1,00,000/- was made. The petitioner was on casual leave from 13.05.2009 to 16.05.2009 and certificate to that effect has been issued by the Manager, UCO Bank, Rampur Branch dated 23.05.2013, as contained in Annexure-3. The complainant also filed complaint before the District Magistrate and Superintendent of Police, Araria and also before the Branch Manager of the UCO Bank but the Chief Manager vide letter dated 13.06.2012, as contained in Annexure-6, recommended for closure of the complaint on the ground that the petitioner was on leave from 13.05.2009 to 16.05.2009 and there is no evidence that the complainant went to the branch for withdrawal of money and the complaint was made after more than two years of the claim of deposit and lastly, since the petitioner had strained relation with the then Branch Manager, hence the matter escalated. It is further submitted that the petitioner never submitted counterfoil/deposit voucher before the bank authorities.

The Superintendent of Police, Araria vide Memo no. 1206 dated 16.5.2013 also directed the Police Inspector, Araria to conduct enquiry in the matter who after enquiry, vide Memo No. 792 dated 13.6.2013 submitted enquiry report to the effect that the allegation was found false. It is also submitted that petitioner retired from service in 2015. A statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned counsel for the complainant-opposite party no. 2 that the deposit of Rs.1,00,000/ was made and apart from that, some money was also deposited in the KCC loan account but the entry was made in the passbook but same was not recorded in the record of the bank and the money has been misappropriated by the petitioner and finding, prima facie, case and the accusation being supported by the complainant as well as enquiry witnesses the order of cognizance has been passed.

Considering the rival submissions of the parties, it appears that the deposit was claimed to have been made on 13.05.2009 but the complaint was filed on 09.04.2014 i.e., after five years and the complaint before the Branch Manager, UCO Bank, was made on 26.04.2012, after two years five months of the occurrence and also keeping in view the fact that durng internal enquiry, it was found that the petitioner was on leave on the alleged date of deposit and the fact that the petitioner has retired, coupled with the statement made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Araria in connection with Complaint Case No. 913C of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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