

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45279 of 2014

Arising Out of PS. Case No.-181 Year-2010 Thana- BELA District- Sitamarhi

Shankar Mahto Son of Nanhku Mahto Resident of Village Bhisra @ Madhopur
Rosan, P.S. Dumra, District Sitamarhi.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. A.K. Tiwary, Advocate
For the State : Mr. Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 01-02-2019

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

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

*“That this is the petitioner for quashing
the order dated 12/8/2013 passed by learned Chief
Judicial Magistrate Sitamarhi in connection with
Bela P.S. Case No. 181/10 dated 23/12/10 G.R.
No. 3095/2010 Tr. No. 3624/13 by which
Cognizance has been taken against the petitioner
under Sections 409/467/468/469/471/420 and
120(B) Indian Penal Code and the above said
case is pending in the Court of learned Sri Neeraj
Kumar Magistrate 1st class, Sitamarhi.”*

3. The allegation against the petitioner and others is that
he being the Nazir in Parihar Block in the District of Sitamarhi



was party to fraudulent withdrawal of Rs. 25,000/- in favour of one Kanti Devi, though she was dead four years prior to the date on which she was given the amount.

4. Learned counsel for the petitioner submitted that he being the Nazir was duty bound to obey the direction of the concerned B.D.O., who was the authority to sanction the amount and who had sanctioned the amount in the present case also and further that his only role was that as per the direction of the concerned B.D.O., he had prepared a cheque of the amount which the B.D.O. had directed and sent it to the Bank directly for being paid into the account of the beneficiaries, which included Kanti Devi. Learned counsel submitted that the petitioner had no role either in the sanctioning or in the actual withdrawal of the amount by any of the beneficiaries. In support of such contention, learned counsel drew the attention of the Court to various documents, copies of which have been brought on record.

5. Learned A.P.P. fairly submitted that in view of the materials on record, the role of the petitioner does not indicate any misconduct, much less criminal conduct.

6. 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. As has



rightly been submitted by learned counsel for the petitioner, the petitioner was only carrying out the directions of the concerned B.D.O. in such payment and that too by preparing a cheque and forwarding it to the Bank concerned for payment. It is not the case of the prosecution that the petitioner was in any way involved in sanction of the loan and also that he had paid the amount in cash to any beneficiary, including the lady in question. This being the admitted factual position, the Court finds that continuance of a criminal case against him would be an abuse of the process of the Court.

7. For reasons aforesaid, the application is allowed. The entire criminal proceeding arising out of Bela P.S. Case No. 181 of 2010 (G.R. No. 3095 of 2010/ Tr. No. 3624 of 2013) including the order dated 12.08.2013, by which cognizance has been taken, as far as it relates to the petitioner, stand quashed.

(Ahsanuddin Amanullah, J)

P. Kumar

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