

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3609 of 2015

Arising Out of PS. Case No.-514 Year-2014 Thana- K. HAT District- Purnea

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Md. Abdul Mannan Son of Late Abdul Rahman, Resident of Alam Manzir,
Ashiyana Colony, P.O-Khazanchi Hat, P.S-K.Hat, District-Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pranav Kumar Son of Tilakdhari Singh, Resident of Village-Nanand, P.S-Silao, District-Nalanda.
3. The Bihar State Power Holding Co. Ltd, Patna through C.M.D. Vidyut Bhawan Bailey Road, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Jha and Dr. Bidhu Ranjan, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Power Company :		Mr. Kumar Priya Ranjan and Mr. Niraj Kumar, Advocates

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

ORAL JUDGMENT

Date : 10-05-2019

Heard learned counsel for the petitioner; learned APP
for the State and learned counsel for the Bihar State Power



Holding Company Limited (hereinafter referred to as the 'Company').

2. 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 for setting aside the order dated 21.8.2014 passed in K. Hat P.S. Case No. 514 of 2014 whereby and whereunder cognizance has been taken against the petitioner for the offence punishable under Sections 409 and 406 of the Indian Penal Code by the learned C.J.M., Purnea.”

3. The allegation against the petitioner, who at the relevant time was a Grade-III employee in Electric Supply Division, Kishanganj on 15.10.2012, had realized an amount of Rs. 5282/- from one Smt. Asha Devi, who was the consumer of the Electric Department, but in the register, he had entered only Rs. 582/- and, thus, had misappropriated an amount of Rs. 4700/-.

4. Learned counsel for the petitioner submitted that the present criminal case is absolutely *mala fide* and in fact not maintainable. It was submitted that the petitioner being overburdened, though does not deny receiving Rs. 5282/- from the said consumer, but had entered only the figure 582, missing the 2 in the middle, which was totally inadvertent and unintentional. It was submitted that had there being any intention to misappropriate, the



figure of 582 would not have been entered and some round about figure would have been entered. It was submitted that even from the figure in question, entering 582 instead of 5282 *ex facie* can very well be accepted to be a *bona fide* and human error. Learned counsel submitted that once the same was detected, the petitioner, under orders of the then Executive Electrical Engineer, Electric Supply Division, Purnea dated 06.05.2014, on the application made by the petitioner himself accepting such mistake and seeking permission to deposit the shortfall amount of Rs. 4700/-, had been granted such permission. It was further submitted that pursuant thereto, on 09.05.2014, the said amount was also deposited in the Bank in the account of the then Bihar State Electricity Board. It was submitted that by order dated 12.05.2014, the Assistant Electrical Engineer, Electric Supply Division, Purnea (Urban) directed the petitioner to pay interest on Rs. 4700/-, which he had deposited late and the amount was quantified as Rs. 1269/-. Learned counsel submitted that the petitioner deposited the said amount also the very next day on 13.05.2014. Learned counsel submitted that the New Electrical Executive Engineer without being properly briefed on facts by his Office issued Letter No. 1669 dated 09.07.2014 to the Officer Incharge K. Hat PS Purnea for lodging of FIR against the



petitioner for misappropriation of Rs. 4700/-. It was submitted that once much prior to 09.07.2014, the entire amount along with interest had already been deposited in the coffers of the Company, there could not have been any misappropriation as the amount has already returned, duly compensated, to the Company's account that too, under the order of the then Electrical Executive Engineer.

5. Learned counsel for the Company, who has filed counter affidavit, does not controvert such fact and in fact submitted that he himself has brought the relevant documents on record in the counter affidavit.

6. Learned APP submitted that once the Company itself has accepted the error, the application deserves to be allowed.

7. Having considered the facts and circumstances of the case and taking into consideration the discussions made hereinabove, the application is allowed. The entire criminal proceeding arising out of K Hat PS Case No. 514 of 2014, pending before the Court below at Purnea, including the order dated 21.08.2014, by which cognizance has been taken, stands quashed.

8. Before parting, the Court would record its appreciation of the assistance given by Mr. Kumar Priya Ranjan, learned counsel, both for having responded to the request of the



Court to appear and also for having filed affidavit promptly as well as taking a fair stand before the Court.

(Ahsanuddin Amanullah, J.)

P. Kumar

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