

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.505 of 2016

Arising Out of PS. Case No.-7 Year-2007 Thana- MOTIPUR District- Muzaffarpur

Shree Ranjan S/o- Late Sukhdeo Thakur, resident of Moh.- Adarsh Colony,
Damuchak, P.S.- Kazi Mohammadpur, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ram Deo Singh S/o Late Brijlal Singh, resident of vill.- Samir Nagar, P.S.
and District- Khagaria

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Parasmani
For the Respondent/s : Mr.M.Dayalapp

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

8 12-07-2019 This application has been filed against the order dated 21.04.2016 passed by Sri Mukesh Kumar, Judicial Magistrate -1st Class, Muzaffarpur in Tr. No. 1599/16, GR No. 47/07 arising out of Motipur P.S. Case No. 7 of 2017, by which, the learned Trial Court has rejected the prayer of the petitioner to add the charge under Sections 409 and 420 of the Indian Penal Code.

Facts in short is that petitioner is an agent of National Savings Certificate (NSC) and he deposited Rs. Forty Thousand to purchase NSC in the name of one Pinki Kumari, for which, he was entitled for a commission of Rs. 380/- but opposite party no. 2, who was the postmaster paid only Rs. 285/- despite getting voucher of Rs. 400/-.

Police after investigation submitted chargesheet under



Section 504 of the Indian Penal Code. Cognizance of the offence was taken. It further appears that during trial summary of accusation was explained under Section 504 of the Indian Penal Code and three witnesses including informant – petitioner was examined. The petitioner filed the application for addition of charge under Sections 409 and 420 of the Indian Penal Code but the learned Trial Court has dismissed the petition filed by the petitioner for addition of charge under Sections 409 and 420 of the Indian Penal Code vide order dated 21.04.2016.

Further it appears that petitioner has preferred Criminal Revision No. 851 of 2009 before this Court and this Court has dismissed the said revision application with some observation. Thereafter, it appears that the petitioner got some documents exhibited and also examined one witness, which shows that the petitioner was entitled for commission of 1%. It further appears that, thereafter, again the petitioner has filed an application under Section 216 Cr.P.C. to add charge under Sections 409 and 420 of the Indian Penal Code and rejoinder to that was also filed but the learned Trial Court rejected the petition vide order dated 21.04.2016.

Being aggrieved by the same, the petitioner has preferred the present application.

Submission of leaned counsel for the petitioner is that there are materials available on record to prima facie show that there are materials for framing of charge under Sections 409 and 420 of the



Indian Penal Code but the learned Trial Court has rejected the petition filed by the petitioner, which is not sustainable in the eye of law.

Heard learned counsel for the State.

Having heard the parties, considering the facts and circumstances of the case and the materials available on record, I do not find any infirmity in the impugned order dated 21.04.2016 passed by Sri Mukesh Kumar, Judicial Magistrate -1st Class, Muzaffarpur in Tr. No. 1599/16, GR No. 47/07.

However, it will always be open to the petitioner that when some evidence are available to show prima facie case under Sections 409 and 420 of the Indian Penal Code, he may move before the learned Trial Court for addition of charge.

Accordingly, this application is disposed of.

(Vinod Kumar Sinha, J)

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