

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1307 of 2018

Arising Out of PS. Case No.-228 Year-2017 Thana- GANDHIMAIDAN District- Patna

Vishwajeet Singh @ Bishwajit Singh Son of Late Sheo Kumar Singh, a resident of Mohalla- Fraser Road Pawan Putra Apartment, Flat No. 303, Police Station- Gandhi Maidan, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Mouar, Adv
For the Respondent/s : Mr. Ahmad Ali, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 10-01-2019

Heard parties.

2. This criminal revision petition has been filed against the order dated 10.09.2018 passed by learned ACJM-XVII, Patna in connection with Gandhi Maidan P.S. Case No. 228 of 2017 (G.R. No. 2738 of 2017) by which the learned court below has cancelled the bail of petitioner and also directed to issue NBW against petitioner through S.S.P, Patna.

3. The Informant of the case is carrying a business in the name and style of High Link Communication and its office is situated at Pir Mohani under the jurisdiction of Gandhi Maidan P.S. Petitioner Vishwajeet Singh, his wife Shipra Singh and Ajay Kumar Singh are running a medicine company at Patna in the name and Style of M/s Eliza Health Care Private



Limited and M/s ABS Eliza Life Sciences Private Limited and they had approached Informant for providing loan to run the business and also promised to repay the same within scheduled time.

4. In the Month of December-2014, both husband and wife came to the office of Informant and asked for Rs. 10 Lacs as loan for business purpose with the assurance that it would be returned within a year and subsequently Informant transferred Rs. 10 Lacs in the account through RTGS dated 20.12.2014.

5. Again in the Month of March-2015 both of them approached and asked for further Rs. 50 Lacs as loan with the assurance that all the dues would be repaid within three months. Rs. 5 Lacs on 13.03.2015, Rs. 15 Lacs on 26.03.2015 and Rs. 5 Lacs on 27.03.2015 was transferred into the account of petitioner. Besides it Rs. 21,75,000/- was also given as cash in the month of April-2015 to May-2015 in presence of witnesses duly acknowledged by petitioner and a receipt dated 05.06.2015 was also handed over to Informant with a condition that money will be refunded by 31.07.2016. However, accused-petitioners made payment of part of loan and Rs. 49 Lacs remained unpaid.

6. On 20.12.2016, accused gave two cheques of Rs. 25 Lacs and Rs. 24 Lacs in the name of Informant-Company



and when same were presented in the Bank for encashment they were dishonoured due to insufficient funds. Informant went to the office of petitioner, he was assaulted and abused for which Gandhi Maidan P.S. Case No. 14 of 2016 was instituted.

7. Informant send a legal notice to pay the amount but the same was not paid and thereafter FIR was lodged against petitioner and other accused under Sections 406, 420 read with 34 of IPC and petitioner was arrested on 19.05.2017 by the police and remanded to jail. During detention in Jail petitioner and other accused approached the Informant Amar Kumar and requested to settle the dispute as they are ready to pay the entire amount to the Informant and on such assurance being made by petitioner and other co-accused persons the Informant agreed to settle the dispute on receiving the full payment but petitioner and other accused expressed their inability to pay the entire amount at a time.

8. Wife of petitioner namely Shipra Singh told and assured the informant that she will pay Rs. 1 Lac cash at the time of filing of compromise petition and she will pay all the due amount by cheques and thereafter on 21.01.2017 a joint compromise petition was prepared in presence of wife of petitioner and other co-accused and petitioner voluntarily signed



on the compromise petition in presence of Jail authority on 21.05.2017 and on 22.05.2017 wife of petitioner called the Informant and reached the court and handed over the compromise petition to Informant and in terms of compromise petition she gave Rs. 1 Lac to the Informant in cash and also gave five cheques of Rs. 41 Lacs in terms of compromise and petitioner was granted bail on the basis of compromise petition on 24.05.2017.

9. On 30.06.2017, the Informant presented the cheques but the same were again dishonoured and Informant approached the accused for payment but no payment was made and as such filed a petition on 31.07.2018 for cancellation of bail and after hearing the parties the trial court cancelled the bail granted to petitioner which is being challenged in this revision petition.

10. It has been submitted by learned counsel for the petitioner that once bail was granted, it cannot be cancelled and as such the order cancelling bail of petitioner suffers from illegality and fit to be set aside. It has been further submitted that the order of grant of bail was not conditional and in absence of any such condition order of cancellation of bail is fit to be set aside. It has been further submitted that the order cancelling bail



is not sustainable because the court held that there is violation of condition of terms of compromise and accordingly, the bail has been cancelled whereas it is clear from the compromise petition that the conditions of terms of compromise petition were honoured and the Informant of the case had already received a total amount of Rs. 42 Lacs out of which Rs. 1 Lac by cash and Rs. 41 lacs by way of five cheques, as such there was no occasion for the court below to cancel the bail bond of petitioner.

11. It has been further submitted that although the cheques issued by the petitioner were dishonoured by the Bank but the same would not constitute a ground for cancellation of bail and Informant was free to institute a separate case for dishonour of cheque but on that ground his bail bond could not have been cancelled. It has been further submitted that the order granting bail dated 24.05.2017 was passed on the basis of compromise but there was no condition that the accused shall be compelled to comply the terms and conditions of compromise, as such for non-compliance of the conditions of the compromise petition, the bail of the petitioner would not have been cancelled. The counsel for the petitioner in support of his contention has relied upon judgment and order of Apex court in



the case of *Biman Chatterjee vs Sanchota Chatterjee* since reported in *AIR 2004 SC 1699*.

12. After hearing learned counsel for the petitioner and learned counsel for the State, this Court finds that the bail was granted to the petitioner on the basis of compromise entered between the parties according to which the amount taken by way of loan by the petitioner was to be repaid. As agreed between the parties Rs. 1 Lac cash was to be paid and for the remaining amount cheques were issued to be encashed on presentation by the Informant in the Bank. The petitioner was granted bail and released from Jail in terms of compromise. The Informant was paid Rs. 1 Lac in cash, however, when he presented five cheques for the amount of Rs. 41 Lacs same were dishonoured. There was breach of terms of compromise and the refund of money, which was a condition precedent for grant of bail was violated and as such the trial court had rightly cancelled the bail bond of petitioner. After release from Jail, the petitioner also filed a fictitious and false case against the Informant being Gandhi Maidan P.S. Case No. 371 of 2017, which was found to be false against the Informant by the IO of the case. The judgment cited by the counsel for the petitioner is not applicable in the facts and circumstances of the present case,



as in the present case the order granting bail was conditional based upon the compromise petition entered into between the parties and one of the condition for grant of bail was that the amount due to the Informant was to be refunded, for which five cheques were issued by the co-accused in favour of Informant but when presented all were dishonoured and resultantly the bail granted to the petitioner was cancelled. The trial court has held that petitioner and his wife not only cheated the Informant but also cheated the court by not complying the terms and conditions of the compromise and as such cancelled the bail bond of petitioner.

13. This court does not find any illegality or irregularity in the order passed by the trial court and as such is not inclined to interfere in the order dated 10.09.2018 passed by the ACJM-XVII, Patna, and accordingly, the revision petition is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
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