

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6599 of 2020

Arising Out of PS. Case No.-326 Year-2018 Thana- MOHANIYA District- Kaimur (Bhabua)

SHIV KUMAR LAL S/o Late Makhan Lal, Deed Writer, Registry Office,
Mohania R/o Bhabhua Ward No.01, P.S.- Bhabua, Distt- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Abhay Kumar Singh S/o Late Kapildev Singh R/o Village- Barej, P.S.-
Mohania, Distt- Kaimur at Bhabua.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tribhuwan Narayan, Adv

For the Opposite Party/s : Mr.Rana Randhir Singh, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 31-01-2020

Heard the parties.

This petition under Section 482 of Cr.P.C. has been filed for quashing the order dated 7.8.2019 passed by learned CJM, Kaimur at Bhabhua passed in Mohania P.S. Case No. 326 of 2018 (G.R. No.1391 of 2018) by which the learned court has taken cognizance of the offence punishable under Sections 406, 504, 506, read with 34 of IPC.

Briefly stated the facts of the case is that informant | Abhay Kumar Singh lodged a written complaint on 2.6.2018 giving rise to Mohania P.S. Case No. 326 of 2018 alleging therein that on 3.5.2018 he had given Rs.1,25,500/- to Shiv Kumar Lal (petitioner) who is a deed writer to deposit the



money through Challan in treasury which was a consideration money for execution of sale deed, however, instead of depositing the amount, they defalcated it.

After investigation, the police found the case to be true and submitted charge-sheet against petitioner and on the basis of materials available on record and evidence collected during investigation, the learned court below took cognizance against the petitioner and issued summons to appear and face trial.

At the stage of taking cognizance, the learned court is required to apply its judicial mind only with a view to find out whether a *prima facie* case has been made out for summoning the accused persons or not. At said stage, the court is not required to evaluate the merits of material or sufficiency or relevancy of evidence.

At the initial stage of issuance of process, it is not permissible to enter into the merits of contention raised by the accused. Order of cognizance cannot be quashed only on the ground that the allegations made are of civil nature, if the ingredients of the offence as alleged against the accused are *prima facie* made out.

For the reasons as stated above, this court is not inclined to interfere in the order passed by the learned court



below, as such present criminal miscellaneous petition is dismissed. However, it shall be open to the petitioner to raise all the issues raised before this Court as well as other issues available to him under law at the time of framing of charge.

The miscellaneous application is disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2020
Transmission Date	31.03.2020

