

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7753 of 2015

Arising Out of PS. Case No.-188 Year-2012 Thana- WAJIRGANJ District- Gaya

Shailendra Kumar @ Pappu Kumar Son of Rambriksh Singh, Resident of
Village - Pura, Police Station - Wazirganj, District - Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Branch Manager, State Bank of India Wazirganj Branch, Gaya Bihar
3. The Zonal Manager, State Bank of India, Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.S.R.P. Sinha, Advocate
		Mr. Mrigendra Pratap Singh, Advocate
For the Opposite Party/s :		Md. Sufiyan, App
For the SBI(Resps. 2 & 3:		Mr. Kaushalesh Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 08-01-2020

Heard learned counsel for the parties.

2. This application under Section 482 Cr.P.C. for quashment of order dated 01.12.2014 passed by the learned Chief Judicial Magistrate, Gaya, in Wazirganj P.S. Case No.188 of 2012 whereby the learned Chief Judicial Magistrate, Gaya, refused to discharge the petitioner and has ordered for framing of charge under Section 406 of the Indian Penal Code.

3. Fact of this case is that the petitioner lodged Wazirganj P.S. Case No.188 of 2012 alleging therein that the petitioner is running a Customer Service Point for State Bank of



India at Kenar and petitioner worked thereat as service provider. On 18.08.2012 unknown criminals robbed rupees seven lacs and seventy thousand of the petitioner. The case was registered under Section 392 of the Indian Penal Code. After investigation the police concluded that the petitioner had misappropriated the money of the Bank and had lodged a false case of robbery. As such charge sheet was submitted against the petitioner for offence under Section 406 of the Indian Penal Code.

4. The challenge is on the ground that the money was of the petitioner and there was no material that the same was entrusted by the Bank to the petitioner. Therefore, an important ingredient i.e., “entrustment of property” is missing in this case to constitute offence under Section 406 of the Indian Penal Code. Hence, the criminal prosecution of the petitioner is an abuse of the process of the Court.

5. The respondent Bank has filed counter affidavit specifically stating therein that the petitioner had withdrawn rupees nine lac seventy thousand on 18.08.2012 from his own account vide Cheque No.0175064 dated 18.08.2012. The looted money was of the petitioner and not of the Bank.

6. In view of the specific statement in the counter affidavit that money was not of the Bank it is not a case of



“entrustment of money” by the Bank to the petitioner; rather there is specific case that the money was of the petitioner. Hence, the offence under Section 406 of the Indian Penal Code is not made out.

7. Therefore, in my view, criminal prosecution of the petitioner is an abuse of the process of the Court. Hence, the impugned order and the entire subsequent proceeding stands hereby quashed and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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