

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1150 of 2018

Arising Out of PS. Case No.-95 Year-2018 Thana- GAYA COMPLAINT CASE District-
Gaya

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Kundan Kumar Keshri, son of Sri Mohan Prasad Keshri, resident of Mohalla
Tekari Road, in front of Hotel Arya Niwas, P.S.- Kotwali Gaya, Town and
District Gaya.

... Petitioner

Versus

1. The State Of Bihar
2. Mohan Prasad Keshri, Son of Late Chamari Ram Keshri,
3. Chandan Kumar Keshri, Son of Mohan Prasad Keshri, Both residents of
Mohalla- Tekari Road, In front of Hotel Arya Niwas, P.S.- Kotwali, Gaya,
Town and District- Gaya.
4. Ashok Kumar Agrawal, Son of not known to the petitioner, the then Post
Master, Purani Godam Branch, P.S.- Kotwali, Gaya.
5. Subodh Kumar Sinha, Son of not known to the petitioner, the then Deputy
Head Post Master, Purani Godam Branch, P.S. Kotwal, Gaya.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Nagadeo Choubey, Advocate
For the Respondents : Mr.B.N. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 17-02-2020 Heard learned counsel for the complainant-petitioner
and Mr. B.N. Pandey, learned APP for the State.

By the impugned order dated 01.08.2018 the
complaint preferred by the petitioner giving rise to Comp. Case
no. 95 of 2018 has been dismissed under Section 203 of the
Code of Criminal Procedure.

The learned Magistrate has after perusal of the
statement of the complainant and the two enquiry witnesses
came to a conclusion that from the materials available on the



record it appears that the post office authorities were satisfied that the signature of this complainant-petitioner tallies with the signature appearing on the withdrawn slip by which the interest amount from the M.I.S. account were withdrawn. The learned Magistrate has also found that the M.I.S. account was a joint account in the name of the complainant and his mother. The mother died on 03.11.2014, the allegation is that after her death for about 21 months the accused nos. 1 and 2 who are none else than the father and brother of the complainant kept on withdrawing the interest amount from the said account under forged signature of the complainant but it has been found on perusal of the records that the complainant had himself authorised his father on 21.04.2015 and 18.12.2015 to withdraw the amount from the said account and thereafter he has received the maturity amount i.e. Rs.3,44,528/- through a cheque drawn in his name after completion of the period for which the deposit was made.

Having found that the records are showing the withdrawal of the amount by the complainant himself, the complaint preferred by the present petitioner has been dismissed.

Learned counsel for the petitioner submits that the learned Magistrate has conducted a kind of mini trial and



thereby has reached to a conclusion that the signature of the petitioner tallies with that which is present on the withdrawal slip. In his opinion, a prima-facie case was made out for summoning the accused persons and, therefore, the order dismissing the complaint petition is bad in law.

Learned counsel for the State has though limited role to play in the present case submitted before this Court that first of all the complaint petition was preferred without following the procedures established by law. From the Complaint petition it has been shown that in a very casual manner a statement has been made by the complainant in the last paragraph of the complaint petition that he approached the police station but did not take any action. There is no statement much less any material brought in course of his deposition that he had ever filed any complaint with the police station and then on refusal to lodge the F.I.R. he had complied with the requirement of sub-Section (3) of Section 154 Cr.P.C. by sending a copy of the said complaint to the office of the Superintendent of Police. The complaint petition was not even affidavited as was required in view of the judgment of the Honourable Apex Court in the case of **Lalita Kumari Versus Govt. Of U.P. and Ors.** reported in **AIR 2014 SC 187.**



This Court has perused the impugned order and the materials brought on record. On perusal of the complaint petition as contained in Annexure '1' shows that there is no specific statement as to whether the petitioner had at any point of time approached the police station, only a vague statement has been made in this regard. There is no compliance with sub-Section (3) of Section 154 Cr.P.C. and the complaint was also not affidavited. In course of enquiry though it is alleged by the petitioner and his sister as also his wife who deposed as enquiry witness that the father of this petitioner had withdrawn the money by forging the signature of the petitioner but then in course of enquiry learned Magistrate has called for the entire records of the account as also the postal inspector had recorded his satisfaction that the signature of the petitioner tallies with that of the withdrawal slip. The learned Magistrate also found that the petitioner has received the maturity amount of Rs.3,44,528 besides the aforesaid finding this Court also find from the record that the mother of the petitioner died on 03.11.2014 thereafter according to him the withdrawals were made for 21 months but the petitioner at no point of time raised any objection in this regard and further he had himself authorised his father at least on two occasions to withdraw the



money. He files his complaint petition when the account was going to mature after two months only and then during the pendency of the complaint he has admittedly received the maturity amount.

For all the aforesaid reasons this Court is of the opinion that the impugned order needs no interference as no infirmity may be found with the same.

This application has, thus, no merit, it is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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