

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16839 of 2021

Arising Out of PS. Case No.-113 Year-2014 Thana- PATORI District- Samastipur

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RAMESH CHANDRA VERMA SON OF SHRI SATISH CHANDRA
VERMA RESIDENT OF POWER HOUSE ROAD, P.S SADAR, DISTRICT-
BEGUSARAI, BIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ankit Kumar, Adv.
For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 28-04-2022 Heard learned counsel for the petitioner and

learned A.P.P. for the State.

The present application has been filed under
Section 482 of the Cr.P.C. for quashing the order dated
20.11.2019 passed in G.r. No. 952 of 2014 arising out of
Patori P.S. Case No. 113 of 2014 by the learned Chief Judicial
Magistrate, Samastipur, whereby the learned Magistrate has
rejected the petition filed on behalf of the petitioner under
Section 239 of the Cr.P.C.

The brief facts, in nutshell, is that the petitioner is
alleged to have debited Rs. 1,80,000/- (One lac Eighty
Thousand rupees) from the office account and credited the
same amount in five different transactions to the account of
his son, namely, Nitesh and thereafter he withdrawn all the



money from his son's account.

On the basis of statement of the informant, who happens to be Senior Manager, Punjab National Bank, an F.I.R. being Patori P.S. Case No. 113 of 2014 came to be registered and the police has followed the routine investigation and submitted charge-sheet against the petitioner under Sections 409, 467, 468 and 471 of the Indian Penal Code.

Upon submission of charge-sheet, the learned Magistrate has taken cognizance of the offences punishable under Sections 409, 467, 468 and 471 of the Indian Penal Code against the petitioner.

Petitioner being aggrieved filed a petition under Section 239 of the Cr.P.C before the learned Magistrate and the same has been rejected vide order dated 20.11.2019, which is under challenge before this Court.

Learned counsel for the petitioner has submitted that though there is allegation of illegal transfers against the petitioner but the petitioner has already deposited the amount in question as alleged in the F.I.R. before institution of the F.I.R., therefore, the Bank has not suffered from any loss. He further contends that the learned Magistrate has



erred in appreciating the material fact and taken cognizance in mechanical manner and also rejected the petition for discharge filed by the petitioner under Section 239 of the Cr.P.C. without appreciating the material fact. He further contends that there is no sufficient material for framing of charge against the petitioner. In support of submissions, learned counsel submits that the court can shift and weigh the offence at the stage of framing of charge for limited purpose of finding out whether or not prima facie case has been made out. Therefore, the impugned order is bad in law and suffers from gross infirmity and the same deserved to be quashed.

Learned APP for the State has opposed the contention of the petitioner and submits that though the petitioner has deposited the amount in question, but the deliberate intention of the petitioner is proved which attracts the offences punishable under Sections 409, 467, 468 and 471 of the Indian Penal Code against the petitioner. He further submits that learned Magistrate has rightly taken cognizance on the basis of report submitted by the police, and rejected the petition for discharge under Section 239 Cr.P.C. He further contends that the court at the stage of



framing of charge cannot meticulously appreciate the materials on record, nor it can make a roving enquiry at this stage. Therefore, the order impugned does not require interference of this Court at this stage.

I have heard the parties at length and perused the materials available on record and gone through the impugned order.

In the aforesaid background of fact, this Court is of the view that the learned Magistrate has not erred in appreciating the fact and has rightly passed the impugned order. It is well settled principle of law that at the stage of framing of charge, courts are not required to travel deep in to the fact and cannot make roving enquiry and assess and weigh the offence meticulously. It has merely to see whether there is sufficient material to proceed against the petitioner or not. Here, in the present case, the learned Magistrate has found sufficient materials for proceeding against the petitioner for the purpose of framing of charge and accordingly, rejected the petition for discharge under Section 239 of the Cr.P.C. Thus, I do not find any infirmity in the impugned order on this score as well.

To sum up, I do note that a discharge under Section



239 of the Cr.P.C. is possible only when the court entertains the satisfaction that the allegations/charge against the accused is groundless. No detailed evaluation of the materials or meticulous consideration of the possible defences need be undertaken at this stage. The exercise of weighing materials in golden scales is certainly not to be undertaken at this stage and has to be postponed to a later stage. Is the allegation/charge groundless? That alone need be considered at the stage of discharge under Section 239 of the Cr.P.C.

With the aforesaid observation, this Court does not feel incline to interfere with the impugned order rejecting the discharge application under Section 239 of the Cr.P.C. in exercise of powers conferred under Section 482 of the Cr.P.C. Hence, the application stands dismissed, accordingly.

(Rajesh Kumar Verma, J)

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