

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26368 of 2023

Arising Out of PS. Case No.-924 Year-2020 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Mr. Amitabh Chaudhry Son Of Om Singh R/O 2002, 20th Floor Three Sixty
West, Worli Mumbai, 400025 Presently Posted As Managing Director And
Ceo Of Axis Bank Ltd. Having Its Registered Office At Trishul 3rd Floor,
Opposite Samartheshwar Temple, Ps- Law Garden, Ellis Bridge, Ahmedabad
380006 Gujrat

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hemlata Mishra, D/O Bharat Bhushan Mishra R/O Mohalla 201, Sanskar
Tower, C.C Mukherjee Road, Adampur, Ps Kotwali, District Bhagalpur,
Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dayanand Singh

For the Opposite Party/s : Mr. Pramod Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 18-08-2023 Heard learned senior counsel for the petitioner and
learned APP for the State.

2. This application has been filed for setting aside the
order dated 10.10.2022 passed by the learned Judicial
Magistrate First Class, Bhagalpur, Bihar in Complaint Case No.
924 of 2020, wherein learned court has taken cognizance of
offences under Sections 406 and 420 of the Indian Penal Code
against the petitioner and other accused persons.



3. As per prosecution case, complainant stated that she had two bank accounts no. 910010050111755 and 910010050254522 in Axis Bank, Bhagalpur branch. The accused persons in connivance with each other deliberately made all the bank account details and Statement of Account of the complainant public by misusing their position in disregard to the RBI regulation with intention to defraud the complainant accounts. It is further alleged that the complainant gave a written application to one Branch Manager of Axis bank, Bhagalpur Branch and thereafter she has also filed written complaint before Senior Superintendent of Police, Bhagalpur to get an F.I.R. registered. When the F.I.R. was not registered then she sought information about the same under Right to Information Act which was not provided to her. Thereafter, complainant approached learned court of Chief Judicial Magistrate, Bhagalpur by way of Complaint Case No. 924/2020.

4. It is pertinent to mention that the petitioner is the Managing Director and CEO of Axis Bank Ltd. and the petitioner has arrayed as accused person in the present case with *mala fide* intention to put undue pressure even though there is no allegation against this petitioner and no *prima facie* case is made out against the petitioner. It is further alleged that



petitioner is unrelated to the offences alleged by complainant in the said complaint case. It is further alleged that the petitioner being the Managing Director and the Executive Officer of the Bank situated in Mumbai and it very difficult for them to have any role in the alleged offence. It is further stated that the present complaint is filed by complainant with the sole intention to cause harassment and disrepute to the petitioner and embroil the senior management of Axis Bank in frivolous and baseless litigation. From reading of entire complaint case, documents annexed with complaint petition, solemn affirmation on oath of complainant, no prima facie case is made out against the petitioner and therefore the impugned order is illegal and is fit to be set aside. From perusal of the records of the complaint case it appears that no criminal offence is made out against the petitioner and continuance of present criminal proceeding will be abuse of process of law and impugned order is fit to be set aside. It is further alleged that even if the entire averment made in the complaint case is taken to be true still no criminal offence whatsoever is made out against the petitioner in view of the absence of specific averment against the petitioner and therefore the impugned order dated 10.10.2022 passed by learned Judicial Magistrate, 1st Class, Bhagalpur is illegal and mechanical and



therefore fit to be set aside.

5. The petitioner being the Managing Director & CEO of the Bank cannot be accused by virtue of position he holds in as much as the principle of vicarious liability has no manner of application in respect of offences. The petitioner has been made accused no. 5 in present complaint case with mala fide intention to put undue pressure upon the bank though except for mentioning the name of petitioner in accused column as accused no. 5, there is no allegation whatsoever against the petitioner and even the address of the accused no. 5 has not been mentioned by the complaint in the complaint petition.

6. It is pertinent to mention that in the case of Hon'ble Supreme Court in the case of *S.W. Palanitkar v. State of Bihar*, ***A.I.R. 2001 SC 2960*** had observed that when a person approaches High Court under section 482 Cr.P.C. to quash the very issuance of process, the High Court on the facts and circumstances of the case has to exercise the powers with circumspection as stated above.

7. In the entire complaint case there is no specific allegation against the petitioner still cognizance under Section 406 and 420 of the Indian Penal Code, 1860 has been taken by the learned court against the petitioner which is not only bad in



the eyes of law but is also flagrant abuse of the process of law. There is no material either in the complaint case and even the evidence adduced on behalf of the complainant does not make out any case against the petitioner. The impugned order dated 10.10.2022 is illegal since there is no application of judicial mind upon the materials on records of case and therefore is fit to be set aside.

8. I have considered the submission of the parties. From reading of the entire complaint, it appears that the petitioner who is the Managing Director and Chief Executive Officer of the Axis Bank has been made accused without any allegation against him in the entire complaint.

9. This kind of malicious prosecution against the Chief Executive Officer and Managing Director of the Company against who there is no allegation as against entire complaint and against whom no offence is made out should not be allow to continue.

10. Learned counsel for the opposite party no. 2/complainant has supported the prosecution case and has submitted that the prosecution against the petitioner cannot be quashed.

11. Considering the aforesaid view, this application is



allowed and the order dated 10.10.2022 in Complaint Case No.
924 of 2020 is quashed.

(Sandeep Kumar, J)

Ranjeet/-

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