

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31351 of 2015**

Arising Out of PS. Case No.-28530 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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Samiran Roy Chowdhury and Anr

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Ms. Anushka, Advocate
For the Opposite Party/s	:	Mr. Satendram Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP,

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 20-02-2023

Heard the parties.

The matter has been settled between the parties after the petitioners have paid Rs. 5,000/- to the opposite party.

This application has been filed for quashing the impugned order of taking cognizance dated 17.12.2014 passed by J.M 1st Class, Patna in complaint Case No. 28530 ©/ 2014 registered for the offences punishable under Sections 120B, 467, 468, 409, 420/34 of the Indian Penal Code by which learned Magistrate has taken cognizance of the offences punishable under Section 420 I.P.C.

The complainant on 13.03.2014 went to withdraw Rs. 1500/- by using ATM but the machine did not dispense the money. On getting the passbook updated there he found credit



entry of Rs. 1500/- as no debit was done and on 21.06.2014 again debited Rs. 1500/- showing debit entry pertaining to 13.03.2014. On 21.07.2014 made complaint to Branch In-charge and demanded back the money debited who forwarded the same for inquiry. In pursuance of inquiry the complainant was informed that on 13.03.2014 there was successful withdrawal of money from ATM.

The Complainant being an Advocate sent legal notice to the Bank and in pursuance of the same the Bank informed him that there was successful withdrawal. Hence the amount was debited from his account on 21.06.2014.

The complainant further stated that on 22.04.2013 same thing happened but on complaint money was returned by credit entry in his account. The accused persons misappropriated the money in pursuance of conspiracy.

The Bank used to charge for ATM services and hence the Bank is liable in case of fault of the machine.

It is an admitted fact that the petitioners are Bank Officials and if there was some mal-functioning in the ATM machine the petitioners will not be held to be personally liable because they have nothing to do with the working of the ATM machine.



In view of the above, this application is allowed.

The application for quashing the impugned order of taking cognizance dated 17.12.2014 passed by J.M 1st Class, Patna in complaint Case No. 28530 ©/ 2014, is hereby quashed.

(Sandeep Kumar, J)

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