

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20453 of 2017

Arising Out of PS. Case No.-1176 Year-2016 Thana- SARAN COMPLAINT CASE District-
Saran

=====

Milind Madhukar S/o Ramesh Prasad Sinha, aged about 38 years, Earlier posted as Branch Manager, HDFC Bank Ltd. having its Office at Sulakchana complex, Hathwa Market , Chapra, Bihar and presently posted at Branch Manager, having its Branch Office at 15A, Arya kumar Road, Rajendranagar, Patna- 800 016

... .. Petitioner/s

Versus

1. State Of Bihar
2. Shane Alam S/o Abdul Gafar Moh- Dahiyavan, Chapra, Thana- Chapra Nagar, District- Chapra, Bihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dayanand Singh
For the Opposite Party/s : Mr. Sri Navin Kumar Pandey

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 27-04-2023 Heard the learned counsels appearing for the parties.

2. This application has been filed on behalf of the petitioner for quashing the cognizance order dated 24.10.2016 passed by Learned Additional Chief Judicial Magistrate-X, Saran, at Chapra in Complaint Case No. 1176 of 2016.

3. As per the complaint case, complainant has taken a gold loan from HDFC Bank Ltd., and the total loan value was of Rs. 53,015/- and while grating of the aforesaid loan the complainant was asked to sign on various documents but copy of the signed documents was not handed over to the



complainant. It is further stated by the complainant that he also deposited interest amount of the loan of Rs. 7,255/- but despite payment of the interest amount, the accused persons asked him to deposit the rest interest amount but due to the marriage of the complainant's sister the interest amount was not paid and the ornaments kept with the bank was sold by the accused persons.

4. It has been submitted by the learned counsel for the petitioner that the petitioner was earlier serving as a Branch Manager of the HDFC Bank from which the loan amount was availed and the complainant was granted loan after signing an agreement in which all the terms and conditions of the gold loan facility was mentioned.

5. Learned counsel for the petitioner further submits that the Bank has sent various reminder notices to the complainant for payment of due interest amount and outstanding against the said loan but the complainant paid no heed to the notices sent by the Bank.

6. Learned counsel for the petitioner further submits that the Bank has also sent a pre-sale notice and has requested the complainant for payment of outstanding amount within seven days from the date of notice and it was also mentioned in the notice that if the complainant will not pay the said amount



then the bank will proceed to sell the gold in question.

7. Learned counsel for the petitioner also submits that that after getting no reply from the complainant the bank proceeded further and sold the gold as per the terms and conditions of gold loan agreement and the Bank has also sent a Post-Sale letter to the complainant informing about the sale of the Gold.

8. It has further been submitted by the learned counsel for the petitioner that the learned Magistrate has not applied his judicial mind and has mechanically taken cognizance against the law laid down by the Hon'ble Supreme Court in the case of ***Pepsi Foods Case (1998-AIR-SC-0-128)*** and the necessary ingredients for fastening the offence under Section 418 and 465 are lacking against the petitioner.

9. He also submits that the Petitioner has been arrayed as accused in this case because of mala fide intention since the Petitioner is holding the post of Branch Manager of HDFC Bank Ltd. and to wreck vengeance upon HDFC Bank Ltd. and its officials and the Hon'ble Supreme Court has held in the case of ***G. Sagar Suri vs. State of U.P. (A.I.R.2000 SC 754)*** that the civil dispute shall not be given colour of a criminal dispute.

10. Learned counsel for the petitioner has also



submitted that the complainant has filed a Money Suit No. 2 of 2016 at Chhapra for recovery of the amount.

11. Learned counsel for the complainant has submitted that offence is made out against the petitioner and therefore, the case may not be quashed.

12. Learned APP for the State has also adopted the argument of the learned counsel for the complainant.

13. In view of the aforesaid facts and circumstances, as narrated above, and also in view of the law discussed above, this Court is of the view that continuation of the criminal proceeding against the petitioners would be abuse of the process of the Court and not in the interest of justice, therefore, this application is allowed.

14. Accordingly, the cognizance order dated 24.10.2016 passed by Learned Additional Chief Judicial Magistrate-X, Saran, at Chapra in Complaint Case No. 1176 of 2016 is hereby quashed.

(Sandeep Kumar, J)

Vikas/Shishir

U		T	
---	--	---	--

