

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21062 of 2017

Arising Out of PS. Case No.-393 Year-2013 Thana- PATORI District- Samastipur

Dharni Kant Sharma @ D. K. Sharma S/o Devi Sharma, Field Officer, Collection, Posted at Muzaffarpur, Magma ITL Finance Ltd. Resident of Radha Krishna Market, 2nd Floor, Above Axis Bank, G.D. College Road, P.S.-, Dist- Begusarai, Pin Code- 851101.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Manish Kumar Tuntun, S/o Sri Parikshan Matho, Village- Dhamonutari, P.O.P.S.- Patauri, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dayanand Singh
For the Opposite Party/s	:	Mr. Sri Navin Kumar Pandey
For the O.P. No. 02	:	Ms. Jyoti Ranjan Jha, Adv.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 24-04-2023 Heard the parties.

This application has been filed on behalf of the petitioner for quashing the cognizance order dated 17.01.2017 passed by learned CJM, Samastipur in Patory P.S. Case No. 393 of 2013.

It has been submitted by the learned counsel for the petitioner that the petitioner is one of the officials of Magma Finance and there is no direct allegation against him.

If the informant has any complaint against Magma



Finance then it is the company who is held to be liable not the petitioner.

Learned counsel for the petitioner also submits that this is totally a civil dispute and no offence is made out and for this he has relied upon the judgment of Hon'ble Supreme Court in the case of ***Charanjeet Singh Chaddha Vs. Sudhir Mehta 2001 7 SCC 417, Sundaram Finance Limited Vs. The State of Kerela 1966 SC 1178 and Annop Sarmah Vs. Bhola Nath Sharma and Others (2013) 1 SCC 400.***

Learned counsel for the informant submits that from reading the FIR, criminal case is made out and therefore the prosecution of the petitioner cannot be quashed.

I have considered the submission of the parties.

It is basically a dispute between the financier and the loanee/purchaser and the malicious prosecution of the petitioner, being the official of the finance company cannot be allowed in view of the law laid by the Hon'ble Supreme Court in the case of ***Charanjeet Singh Chaddha Vs. Sudhir Mehta(supra), Sundaram Finance Limited Vs. The State of Kerela(supra) and Annop Sarmah Vs. Bhola Nath Sharma and Others(supra).***

In view of the above, this application is allowed.



Accordingly, the cognizance order dated 17.01.2017
passed by learned CJM, Samastipur in Patory P.S. Case No. 393
of 2013 is hereby quashed.

(Sandeep Kumar, J)

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