

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66860 of 2018

Arising Out of PS. Case No.-152 Year-2012 Thana- MADANPUR District- Aurangabad

Narendra Bahadur Singh Son of Ravindra Singh. Resident of Village-
Bishrampur, Police Station-Sheosagar, District-Rohtas.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Singh, Adv.

For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 17-02-2023 Heard learned counsel for the petitioner and the State.

This is an application for quashing of the order dated 17.9.2018 passed by the learned Sub Divisional Judicial Magistrate, Aurangabad in G.R. No. 1232 of 2012 corresponding to Madanpur P.S. Case No. 152 of 2012.

The prosecution story read as follows :

(i) the informant alleged that he sold a truck to the petitioner on consideration amount of Rs.2,50,000/- which was originally financed by Sri Ram Transport Finance Limited, Gaya (henceforth for short 'the Finance Company');

(ii) it was settled between the informant and the petitioner that the remaining installment at the rate of Rs. 11,400/- per month will be paid to the Financer by the petitioner;

(iii) the petitioner paid Rs. 90,000/- to the informant out of Rs. 2,50,000/- but thereafter chose to turn his eyes away inasmuch as the remaining consideration amount was never



paid;

(iv) having felt cheated, the present FIR.

Learned counsel for the petitioner submits that contrary to the allegation made, the entire amount has been paid to the informant as also 'the Finance Company'. Further, the informant executed an affidavit on 18.11.2011 stating that he has sold the said vehicle to the petitioner and received the amount and as such, he cannot now claim that the full payment was not made.

The next submission is that the police investigated the matter and submitted charge-sheet under Section 420 and 406 of the Indian Penal Code against him and his father and thereafter the learned Chief Judicial Magistrate, Aurangabad took cognizance on 23.8.2013.

However, the petitioner and his father moved before the learned Sub Divisional Judicial Magistrate, Aurangabad with the discharge petition in which while the petitioner's father was discharged, his prayer for the same relief was rejected.

He as such submits that from the face of the case, it is a simple civil matter in which the criminal angle has been given and as such, he is entitled to the relief.

Learned APP on the other hand submits that from the



content of the FIR itself, it shows that the petitioner having promised certain amount to the informant as also regular payment of installment to the 'the Finance Company' after taking possession of the truck chose not to fulfil the promise made and in that way, certainly it is a case of cheating.

Learned APP further submits that as the criminal intent of the petitioner was there, the learned Sub Divisional Judicial Magistrate, Aurangabad rightly rejected his discharge petition while that of his father taking into account that his name has come only because he is father of the present petitioner. He as such opposes the prayer.

Having gone through the content of the FIR, in which, the police submitted charge-sheet and the learned Court took cognizance and further the learned Sub Divisional Judicial Magistrate, Aurangabad vide a reasoned order has rejected the case of the petitioner, certainly this is not a fit case for grant of relief sought for.

Accordingly, the petition stands dismissed.

(Rajiv Roy, J)

Ajay Singh/-

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