

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25697 of 2024

Arising Out of PS. Case No.-1137 Year-2021 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

Meena Devi Wife Of Rameshwar Chaubey R/o- Village- Dubauliya Chaubey
Tola, PS- Lauriya, Distt- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
 2. Abhay Kumar Panchanand Mishra R/o- Gyandoday Nagar Baswriya ward
no 31, PS- Bettiah Town, Distt- West Champaran
- Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Kishor Mishra
For the Opposite Party/s : Mr.Kumar Veerendra Narayan

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 02-05-2024 1. Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for Opposite Party No.2.
2. The petitioner seeks bail in anticipation of his arrest in
a case registered for the offences punishable under Sections 406
and 420 of the Indian Penal Code.
3. The learned counsel for the petitioner submits that the
petitioner has been falsely implicated in the instant case by the
Opposite Party No.2. It is further submitted that from perusal of
the allegation, as alleged in the F.I.R., it would manifest that the
dispute is purely civil in nature to which a criminal colour has been
given. It is further submitted that even presuming what has been
alleged is true without admitting then in sum and substance the
informant alleges that the petitioner is her own Mami and she along
with her husband had come to the house of the informant for



seeking loan and accordingly, the informant had given a loan of Rs. 9,50,000/- out of which Rs.8,09,000/- was paid in the account of the petitioner and the rest amount was paid by way of cash but after obtaining the loan, the petitioner and her husband became reluctant to return the loan amount and when the informant asked them to repay back the loan, cheque was issued which on presentation for encashment bounced.

4. The learned counsel submits that the cognizance has not been taken under Section 138 of N.I. Act as such the allegation with respect to bouncing of cheques does not get substantiate and if the informant was aggrieved by the fact that the petitioner and her husband after obtaining loan are not returning the amount in that event, the informant ought to have filed a case before a Court of competent Civil jurisdiction for recovering the monetary dues. Informant instead of resorting to remedy available in law instituted the instant criminal case. It is next submitted that Criminal Courts are not meant for recovering monetary dues. It is also submitted that had the informant filed a money suit for recovering the monetary dues, the petitioner would have got an opportunity either to accept or to rebut the claim, but then the said opportunity never came to the petitioner rather informant by instituting the instant criminal case has sought to recover her money back by putting the



petitioner under fear of arrest.

5. Learned A.P.P. as well as learned counsel for Opposite Party No.2 oppose the bail application but are not in a position to rebut the submission of learned counsel for the petitioner that cognizance had not been taken under Section 138 of N.I. Act and the dispute is civil in nature to which criminal colour has been given.

6. Consideration the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of her arrest or surrender before the learned Court below withing a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate-Ist Class, Bettiah, West Champaran, in connection with Cri. (P) Case No. 1137 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The applications stands allowed.

(Satyavrat Verma, J)

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