

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13800 of 2018

Arising Out of PS. Case No.-2579 Year-2015 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Arvind Mishra, S/o Late Radhe Shayam Mishra, Resident of Mohalla, Anand Chikitsalaya Road, Khalifabagh, P.S. Kotwali, District & Town – Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar

2. Rakesh Kumar Singh, S/o Late Ram Nath Singh, Zonal Business Manager, M/s Healthcase Ltd. Zonal Office Abhuyaday Impex Pvt. Ltd. Near Hanuman Mandir Daud Bigha, Kankarbagh, Main Road, Patna.

Presently changed address is:-

Sai Corporate Park, 8th Floor, B-block, Rukhanpura Bailey Road, Patna-800014.

3. Shri Krishna Bhawe, S/o not known, Director H.R., M/s Abbott Healthcare Pvt. Ltd., Registered Office-3-4 Corporate Park, Sion-Trombay Road, Mumbai-400071.

4. Vidya Nand Joshi, S/o not known, M/s Abbott Healthcare Pvt. Ltd., 'D' Mart Building, Goregaon-Mulund Link Road, Mulund (West). Mumbai-400080.

Presently changed address is:-

Abbott Healthcare Pvt. Ltd., Floor-18, Godrej BKC, Plot-C-68, G-Block, BKC, Near MCA Club, Bandra (East), Mumbai-400051.

5. Sudarshan Jain, S/o not known, Managing Director, Health Care Solution, M/s Abbott Healthcare Pvt. Ltd., 'D' Mart Building, Goregaon-Mulund Link Road, Mulund (West). Mumbai-400080. Presently changed Address is:-

Abbott Healthcare Pvt. Ltd., Floor-18, Godrej BKC, Plot-C-68, G-Block, BKC, Near MCA Club, Bandra (East), Mumbai-400051.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ravindra Kumar Shukla, Advocate Mr. Ritu Raj Shukla, Advocate Mr. Pratyush Pratap Singh, Advocate
For the Opposite Party/s :		Mr. Mukeshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER



6 25-10-2024

The present petition has been preferred by the petitioner under Section 482 Cr.PC against the impugned order dated 14.09.2017 passed by learned District and Sessions Judge, Bhagalpur in Criminal Revision No. 125 of 2016, whereby order dated 18.05.2016 passed by learned A.C.J.M.-VI, Bhagalpur in Complaint Case No. 2579 of 2015 has been upheld and Criminal Revision was dismissed.

2. Brief facts of the case are that the petitioner has filed one Criminal Complaint bearing No. 2579 of 2015 in the Court of learned C.J.M., Bhagalpur against four accused persons, viz., Rakesh Kumar Singh, Shri Krishna Bhave, Vidya Nand Joshi and Sudarshan Jain alleging that one power of attorney executed on 25.04.2012, is apparently forged and fabricated, because this power attorney has been executed on stamp paper of Rs. 100/- which is apparently purchased subsequent to the power attorney, i.e. on 30.04.2012. Hence, the document is forged and fabricated.

3. The case is at the stage of admission.

4. Heard learned counsel for the petitioner and learned APP for the State.

5. Learned counsel for the petitioner submits that as per the facts and circumstances of the case, the aforesaid power



of attorney is forged. Hence, the impugned order dated 14.09.2017 passed by learned District and Sessions Judge, Bhagalpur in Criminal Revision No. 125 of 2016 and order dated 18.05.2016 passed by learned A.C.J.M.-VI, Bhagalpur are not sustainable in the eye of law, because learned Magistrate should have taken cognizance of the offence of forgery.

6. However, learned APP for the State submits that the criminal complaint itself was not maintainable because as per the complaint, the complainant has not approached the police properly. In the complaint, only averment is that the complainant approached the concerned Police Station, but the Police Station refused to receive the complaint. However, there is no further averment by the complainant that he further sent the complaint by registered post to concerned Superintendent of Police. Hence, for want of compliance of such requirement, the complaint was not maintainable before learned Magistrate.

7. He further submits that as per the complaint, the complainant has no information of all the relevant facts of the alleged forgery. The only information of the complainant is that on face of the power of attorney, it is forged. But who has forged, where it was forged and how it was forged, all are in darkness that require investigation by the police, because for



want of statement or finding regarding all these relevant facts for constituting the offence, the complaint is not maintainable. So, complainant was required to approach the concerned Superintendent of Police for investigation of the case after registration of the offence or failing which, he could have filed application before learned Magistrate under Section 156 (3) Cr.PC for referring the matter to the police for registration of the alleged offence and do investigation. Otherwise, taking cognizance and conducting trial on the basis of the complaint in the present form would futile exercise for want of relevant information regarding the alleged offence.

8. I considered the rival submissions advanced by both the parties and perused the relevant materials on record.

9. I find that the complainant has not approached the concerned Superintendent of Police by sending complaint through registered post. Therefore, for want of such requirement being fulfilled, this complaint itself is not maintainable before the learned Magistrate. Hence, the complaint has been rightly dismissed under Section 203 Cr.PC by learned Magistrate and the dismissal order being rightly upheld by Sessions Court in revisional proceeding.

10. Accordingly, the present petition is dismissed for



want of any merit.

11. However, the complainant is at liberty to pursue his legal remedy as per Cr.PC afresh and he may approach the concerned Superintendent of Police for registration of the FIR and even then, if FIR is not lodged, he may prefer an application under Section 156 (3) Cr.PC.

(Jitendra Kumar, J.)

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