IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55087 of 2016

Arising Out of PS. Case No.-464 Year-2013 Thana- RUNISAIDPUR District- Sitamarhi

==

Ram Sewak Mehta, S/o Late Mahabir Mehta, the then Manager, resident of Village- Birauli, PS- Benipatti, District- Madhubani and at present resident of Mohalla- Mali Ghat Chauk, P.S.- Mithanpura, District and Town- Muzaffarpur, Bihar.

... ... Petitioner/s

Versus

1. State of Bihar
2. The Central Bank of India through Branch Manager, Central Bank of India, Mehsaul Branch, P.S.- Runnisaidpur, District-Sitamarhi

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s	:	Mr. Sharwan Kumar, Sr. Advocate Mr. Krishna Kumar Singh, Advocate Mr. Dinesh Maharaj, Advocate
For the O.P. No.2	:	Mr. Ajay Kumar Sinha, Sr. Advocate Mr. Pravin Kumar, Advocate
For the State	:	Dr. Kumar Uday Pratap, APP

==

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

5 29-11-2024 Heard Mr. Sharwan Kumar, learned senior counsel for the Petitioner, Mr. Ajay Kumar Sinha, learned senior counsel for the O.P. No.2 and Dr. Kumar Uday Pratap, learned APP for the State.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with a prayer to quash the order dated 12.04.2016 passed by the learned Additional Chief Judicial Magistrate-II, Sitamarhi in connection with G.R. No. 3886/13(TR No. 1699/16) arising out of Runisaidpur P.S. Case No. 464 of 2013 whereby and whereunder the learned trial Court has taken cognizance of the offences under Sections 420, 467, 468 and 120(B) of the Indian Penal Code (in short 'IPC') against the petitioner.

3. The main submissions advanced by learned counsel for the petitioner are that in respect of the alleged offences, the FIR was registered five years after the alleged incidents and also after four years of the superannuation of the petitioner, in fact, Rs. 9 lacs was fraudulently withdrawn out of the retirement benefits received by the petitioner from his bank account at Runnisaidpur Branch for which the petitioner made a complaint to the higher authorities of the Bank against the Branch Manager, who in retaliation lodged the FIR of the present matter with false allegations. During investigation, no proper verification with regard to the allegations levelled in the FIR was made by the investigating officer. While sanctioning a loan, a strict procedure is followed in a Nationalized Bank in which several officials take part, so, the petitioner alone cannot be held liable for the alleged wrong if the same has been committed but according to his information, the Audit Team did not find any kind of irregularity at the Branch of concerned bank during the relevant period when the petitioner remained posted there. It is further submitted that the successor Branch Manager also got the alleged accounts audited by an internal auditor in successive years and no illegality or irregularity was found and the internal audit report was considered by the Regional Accounts Committee for the successive years and the alleged accounts were closed as genuine and further, in 2011, an external Auditor again examined the alleged accounts as well as other accounts of the Branch and did not find any illegality and irregularity rather it was found that the said accounts were operational. He further submits that for opening the bank account, Land Possession Certificate (LPC) or recommendation of Block Level authorities is not required and there is no material to question the validity of the alleged accounts which are said to have been opened at the Branch of the petitioner during the relevant period, hence, there is no material to substantiate the allegations and the learned Magistrate has taken cognizance of the alleged offences in mechanical manner without applying his judicial mind.

4. On the other hand, learned counsel appearing for O.P. No.2 submits that the alleged offences are clearly made out against the petitioner and the learned trial court has rightly taken the cognizance of the alleged offences against the petitioner.

5. Heard both the sides, perused the order impugned and the FIR. As per the allegations, Rs. 61,94,333/- was distributed by this petitioner in the accounts of ninety persons holding Kisan Credit Card account but during the course of enquiry, it was found that the said loanees were not residing in their respective village as shown and the Land Possession Certificate and Land Receipt concerned to the sanction of their loan were also found to be false and their photographs were also not identified by the local residents as well as *Mukhiya* of the concerned *Gram Panchayat*. It is further alleged that the Senior Deputy Collector and Circle Officer of Runnisaidpur, denied the identity of their signatures purported on the alleged Land Possession Certificate (LPC) and it was also found that the applications of the loanees were not forwarded by the Office of the concerned Circle Officer and during the year 2008, the alleged amount was withdrawn on different dates from the alleged accounts and at that time, the petitioner was posted as Branch Manager at the concerned Branch of the Central Bank of India. During the course of argument, learned counsel appearing for the petitioner has not disputed the petitioner's posting at the said post during the relevant period at the concerned Branch of the Central Bank of India and the allegations levelled against him are based on documentary proof as appears from the FIR.

The aforesaid defences taken by the petitioner’s counsel may be relevant before trial court and a proper decision can be made by the trial court only after taking evidences of both the sides but at this stage, from the face of the allegations, the alleged offences of embezzlement and forgery are clearly attract in this matter and the learned Court below has rightly taken cognizance of the alleged offences. This Court finds no merit in this Criminal Miscellaneous Petition, so, it stands dismissed.

(Shailendra Singh, J)

maynaz/-

U		T	