

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44394 of 2024

Arising Out of PS. Case No.-247 Year-2021 Thana- MAHARAJGANJ District- Siwan

Shamsher Ansari Son of Shamshad Ansari Resident of Village - Chhotka Teghra, P.S.- Maharajganj, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The State Bank of India through Branch Manager, Maharajganj Branch, Siwan. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raghwendra Pratap Singh, Advocate
For the Bank	:	Mr. Binod Bihai Singh, Advocate
For the State	:	Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 25-10-2024 Heard learned counsel for the petitioner and the State as also the Bank.

2. The petitioner is in custody in connection with Maharajganj P.S. Case No. 247 of 2021 for the offence punishable under sections 465, 467, 468, 471, 406, 420 and 120(B) of the Indian Penal Code by the informant, Rakesh Kumar.

3. The prosecution story in brief is that one Rakesh Kumar who was serving as the Branch Manager of the State Bank of India, Maharajganj Branch, Siwan lodged the FIR alleging that he received a cheque no. 088520 of Rs. 9,70,000/- (Nine Lac Seventy Thousand) dated 28.08.2021 issued by the Circle Officer, Tarari from the account no. 34906997809 State Bank of India, Piro Branch in favour of the petitioner (Shamsher



Ansari who is/was customer of the said branch). According to the FIR, after adopting the due process, the amount was transferred in his account but later on 26.04.2021, the informant got the information that the alleged transfer has been made by committing fraud. The petitioner was requested to return the amount but having failed to do so, the present FIR.

4. Pursuant to the last order, the police officials namely Smt. Soni Kumari, the then Investigating Officer of the case and Shri Polust Kumar, the then Sub-Divisional Police Officer, Maharajganj are present.

5. The counter-affidavits have been filed on behalf of the Superintendent, Siwan as also the Branch Manager, State Bank of India, Maharajganj Branch.

6. As per the counter-affidavit of the Superintendent of Police, Siwan though in the FIR of the Branch Manager as also the investigation, the details of the Circle Officer is/are missing, a separate FIR was lodged by the Circle Officer, Tarari vide Piro P.S. Case No. 253 of 2021 under Sections 420, 467, 468, 471 and 472 of the IPC on 23.07.2021, according to which, the cheque of 9,70,000/- (Nine Lac Seventy Thousand) which the petitioner used to encash the amount from the Bank, it was present in the Office and the same was issued and the earlier cheque no. 088519 dated 13.07.2021 was issued to Mahsod Alam for Rs.



23,145/-.

7. When the Circle Officer, Tarari decided to lodge the FIR, the Bank in a haste lodged the FIR and as such, in the opinion of the Court, he deliberately chose not to mention the details of the letter/communication/FIR of the Circle Officer, Tarari.

8. Worse is the case of the first Investigating Officer, Mr. Dilip Kumar. Neither he visited the Circle Office, Tarari nor he demanded any document from the Bank Manager on the basis of which the FIR was lodged. Clearly, he erred in the investigation. Equal responsible is the then S.D.P.O, Maharajganj, Mr. Polust Kumar (now Dy.S.P. Dumraon, Buxar). He also ignored the faulty investigation of the then Investigating Officer and put forward his opinion finding the case to be true.

9. It was in the aforesaid circumstance that the next Investigating Officer, Soni Kumari who stepped in, in view of the Supervision note of the Dy.S.P., she accepted the same and submitted charge-sheet.

10. The facts have been recorded, the investigation definitely was faulty. The counter-affidavits have come according to which, the S.P., Maharajganj has taken note of the fact.

11. So far as the present case is concerned, though in the FIR in question, there is nothing on record to implicate him



taking into account the earlier FIR of the Circle Officer, Tarari, according to which, the cheque on the basis of which he encashed the money was lying in the office of the Circle Office, Tarari, no case for granting relief is made out.

12. The bail petition of the petitioner stands rejected.

13. Since the petitioner was granted provisional bail for two months on 18.09.2024, he is directed immediately to surrender before the concerned Court failing which the Court concerned shall take immediate steps for getting him arrested.

14. The personal appearance of Shri Polust Kumar, the then Sub-Divisional Police Officer, Maharajganj and Smt. Soni Kumari, the then Investigating Officer of the case are hereby dispensed with.

15. The two Police Officers are cautioned to be careful in the future and see to it that the charge-sheets are submitted in a proper manner and after the proper investigation.

(Rajiv Roy, J)

Adnan/-

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