

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46093 of 2023

Arising Out of PS. Case No.-385 Year-2021 Thana- SAHPUR District- Patna

SHATRUDHAN MISHRA @ SHATRUGHAN MISHRA S/o Late Ram
Jappu Mishra Resident of 201, Power Enclave, West Patel Nagar, Police
Station-Shastri Nagar, District-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar, Sr. Adv
		Ms. Shashi Priya, Adv
For the Opposite Party/s	:	Mr.Shailendra Kumar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 23-01-2024 1. Heard learned counsel for the petitioner and
learned APP.

2. The case was taken up on 16-1-2024 when no one
had appeared on behalf of the OP No. 2, despite OP No. 2
receiving notice personally, thereafter, the case was taken up on
18-1-2024, when also no one had appeared on behalf of OP No.
2. Today also, when the case is taken up, no one appears on
behalf of the OP No. 2, which amply demonstrates that OP No.
2 is not interested in pursuing the case or else she would have
appointed a learned advocate to represent her.

3. The learned counsel for the petitioner submits
that petitioner, being Secretary of Power Welfare Organization,
Patna, has been implicated in the present FIR without any
specific allegation of committing any overt act, it is next



submitted that the petitioner is an employee of Power Grid Corporation and one *Agrani Homes* had approached the employees of Power Grid Corporation for purchasing houses which they were contemplating to construct, in pursuance whereof Power Grid Employee Housing Welfare Society was formed of which petitioner was elected as the Secretary and the name of the Society later was changed to Power Welfare Organization, Patna. It is next submitted that the members of the said Society on assurance of *Agrani Homes* had deposited the installments as asked by the *Agrani Homes*, but later they realized that construction has not started and *Agrani Homes* had siphoned off their money, as such, the present FIR was instituted. It is next submitted that since petitioner was the Secretary of the said organization which was communicating with the *Agrani Homes*, hence he was also implicated, but then, no specific allegation has been alleged against the petitioner with regard to siphoning off the money of the members of the Society. The learned counsel further submits that family members of the petitioner, including his wife, son and daughter have also invested in the *Agrani Homes* for purchasing the flat, but they were also duped, as such, they moved before RERA by filing cases against the *Agrani Homes* for recovering their dues,



but the informant without any basis implicated the petitioner without alleging any specific overt act of omission or commission.

4. The learned counsel for the petitioner submits that since no specific allegation is alleged against the petitioner and the entire allegation hinges on surmise and conjecture and in the nature of allegation as alleged in the FIR, no offence is made out under section 406 and 420 of the IPC, nor Section 3 of the Bihar Protection of Interests of Depositors (in Financial Establishment) Act 2002, this perhaps explains why the OP No. 2, despite receiving notice, chooses not to contest the case.

5. Considering the submission made by the learned counsel for the petitioner, the order dated 24-11-2022 passed by the learned CJM, Patna in GR No. 850 of 2022, arising out of Shahpur PS Case No. 385 of 2021, whereby cognizance of offence under Sections 406, 420, 120B and 34 of the IPC read with Section 3 of the Bihar Protection of Interests of Depositors (in Financial Establishment) Act 2002 is taken, is hereby quashed.

(Satyavrat Verma, J)

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