

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 22974 of 2016

Arising Out of PS. Case No.-117 Year-2011 Thana- AANDAR District- Siwan

Shambhu Nath Tiwari, Son of Late Mahabir Tiwari, resident of Village-
Sohagpur, Tola Panditpur, P.S.- Hathuwa, District- Gopalganj.

... .. Petitioner/s

Versus

1. State of Bihar
2. Sanjay Kumar Srivastava, S/o Bhuneshwar Prasad @ Dadan Lal, resident of
Village- Tadawa Parasiya, P.S.- Darauli, District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

12 30-07-2024

1. The petitioner was posted as Block Education Officer, Andar in the district of Siwan. The Informant was posted as Senior Resource Person in the said Block. In the absence of the Accountant in the Block Education Office, the Block Education Officer authorized the informant to deal with the Bank Account, maintained in the name of the Block Education Officer.

2. It is alleged by the petitioner that taking advantage of such authorization, the Senior Resource Person, Opposite Party No. 2 herein, withdrew and misappropriated Rs. 30,04,000/- from the official Bank Account, forging the signature of the petitioner on the cheque issued against the said



Bank Account. The informant was accordingly terminated from service.

3. Further case of the petitioner is that when such forgery was detected, the petitioner lodged complaint against the Opposite Party No. 2 in Ander Police Station, on the basis of which Ander P. S. Case No. 100 of 2011, under Sections 420, 409, 467, 468, 471 and 120B of the Indian Penal Code was registered on 12th of July, 2011 against the Opposite Party No. 2. Subsequently, on 19th of August, 2011, the Opposite Party No. 2 filed a complaint case before the learned Chief Judicial Magistrate, Siwan against the petitioner, alleging, inter alia, that the petitioner misappropriated the said money. The learned Chief Judicial Magistrate sent the said complaint to the local Police Station under Section 156(3) of the Cr.P.C., on the basis of which Ander P. S. Case No. 117 of 2011 under Sections 409, 420, 467, 468, 477 and 120B of the Indian Penal Code was registered against the petitioner on 26th of August, 2011.

4. The learned Judicial Magistrate, 1st Class, Siwan, passed an order on 29th of April, 2016, amalgamating both Ander P. S. Case No. 117 of 2011 and Ander P. S. Case No. 100 for trial. The petitioner has challenged the aforesaid order, dated 29th of April, 2016 with further prayer to quash Ander P. S.



Case No. 117 of 2011, filed by the Opposite Party No. 2 against the petitioner.

5. It is submitted by the learned Advocate appearing on behalf of the petitioner that in connection with Ander P. S. Case No. 100 of 2011, the cheque in question, through which the Opposite Party No. 2 withdrew a sum of Rs. 30,04,000/-, was sent to the Forensic Science Laboratory for examination of the signature bearing on the disputed cheque with the admitted signature of the Block Education Officer by Hand Writing Exert. The Hand Writing Expert submitted his report that the signature appearing on the disputed cheque was forged.

6. In view of such circumstances, the case instituted on the basis of the complaint submitted by Opposite Party No. 2 ought to be quashed under the provisions of Section 482 of the Cr.P.C.

7. Having heard the learned Advocate for the petitioner and on careful perusal of entire materials on record, this Court finds that the instant application under Section 482 of the Cr.P.C. is duly misconceived. Under the provisions of Section 482 of the Cr.P.C., the High Court cannot quash a criminal proceeding on a disputed question as to whether



signature appearing on the cheque through which money was withdrawn was forged signature or not. In order to prove the said fact, the report of the Hand Writing Expert is required to be brought in evidence by way of examination of Hand Writing Expert in Trial.

8. Therefore, at this stage, a criminal case cannot be quashed on the ground that during investigation, charge against the petitioner has not been proved.

9. For the aforesaid reasons, the instant application under Section 482 of the Cr.P.C. is rejected and the Criminal Miscellaneous Case is dismissed.

10. Office is directed to send the Lower Court Records back to the Court below at the earliest.

(Bibek Chaudhuri, J)

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