IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40079 of 2016

Arising Out of PS. Case No.-1866 Year-1995 Thana- MUZFFARPUR COMPLAINT CASE District- Muzaffarpur

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Surendra Ambalal Dave (S. A. Dave), Son of Late Ambablal Asharam Dave, Former Chairman, erstwhile Unit Trust of India, New Marine Lines, P.S.-Ajad Maidan, Mumbani-400020, at present UTI Asset Management Company Limited (a successor to the erstwhile Unit Trust of India), UTI Tower, Gn. Block, Bandra Kurla P.S.-BKP Complex, Bandra [East], Mumbai-400051.

... ... Petitioner

Versus

1. The State of Bihar
2. Shreedhar Narayan, Son of Late Amrendra Narayan, "Rai Bahadur Kothi" in front of Jumma Masjid, Nai Bazar, Police Station, Town, District-Muzaffarpur.

... ... Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Gouranga Chatterjee, Advocate
		Mr. Sahil Kumar, Advoate
		Mr. Ujjwal Raj, Advocate
For the Opposite Party/s	:	Mr. Madhuranand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 01-05-2024

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

2. The present application has been filed by the petitioner for quashing the entire criminal proceeding pending in the court of learned Judicial Magistrate-1st Class, Muzaffarpur in Complaint Case No.1866 of 1995/Tr.

No.1121 of 2016, registered for the offences under Sections 120-B, 406, 409 and 420 of the Indian Penal Code (for short 'IPC').

3. The prosecution case, in brief, speaks that the complainant in the joint name of his wife, namely, Mrs. Shalini Agrawal had purchased from secondary market, two Unit Certificates of 100 Units each of Master Share 1986 scheme of the erstwhile Unit Trust of India from one Shri Kirti Bhai Patel to whom the Unit Certificate had been originally issued by the erstwhile Unit Trust of India in the year 1991. The face value of the said two Unit Certificates was Rs.2,000/-. The complainant/Opposite Party No.2 had sent transfer application to the erstwhile Unit Trust of India by registered post on 23.11.1993 for registration of the said Unit Certificate in the joint name of the complainant. The complainant further alleged that according to the Master Share 1986 Scheme of the erstwhile Unit Trust of India, the holder of the Unit certificates was entitled for bonus and rights of the Units offered by the erstwhile Unit Trust of India, provided the name of the holder must be registered as

on the 'record date' as a unit holder. Since the unit certificates were not registered in the name of the complainant during the period, the petitioner and his wife did not get the benefit of rights and bonus units offered by the erstwhile Unit Trust of India. It is further alleged that the complainant had written several letters to the erstwhile Unit Trust of India and the petitioner but, the grievance was not redressed and due to non-redressal of the said grievance, the petitioner had misappropriated the rights and bonus units of the Master Share 1986 unit scheme of the erstwhile Unit Trust of India.

4. It is submitted by learned counsel appearing for the petitioner that the cognizance order dated 13.02.1996 has already quashed by this Hon'ble High Court through Cr. Misc. No.11246 of 1996 vide order dated 04.01.2000. It is submitted that vide aforesaid order dated 04.01.2000, a condition was imposed while disposing the aforesaid criminal miscellaneous that payment of Rs. 1,000/- by way of cost and further a sum of Rs.1,500/- by way of interest and delayed payment, total Rs. 2,500/- be made to the

complainant within three weeks from the date of order i.e. 04.01.2000 failing which the proceeding in connection with Complaint Case No.1866 of 1995/Tr. No.1121 of 2016 will remain continued against the petitioner.

5. It is further submitted by Mr. Chatterjee that in compliance of the aforesaid condition, the payment was made by accused/petitioner to the complainant through cheque No.466882 dated 18.01.2000 drawn on S.B.I., Patna, which was duly honoured, for which complainant granted a receipt on 19.08.2016, which is Annexure-6 of the supplementary affidavit dated 29.11.2017.

6. It is submitted that it was for the complainant to inform the Court regarding receiving of payment, which was made to him within time by the petitioner but, as due to certain oblique reason, he failed to inform the learned trial court and for the said reason, the proceedings remained continued against the petitioner.

7. It is submitted that as the payment was made within time, in compliance of Hon'ble High Court's order, as aforesaid, the non-appearance of petitioner before the

learned trial court was *bona fide,* having all reasons to believe that further proceedings stand quashed against him.

8. In view of above, it is submitted that continuity with the present proceedings would only amount to misuse of the process of court of law and, as such, all proceedings in this matter after communication of the order dated 04.01.2000 as passed in Cr. Misc. No.11246 of 2000 shall be quashed by confirming the aforesaid order as its condition was complied within time by the petitioner.

9. Considering the submission and upon perusal of record, it appears that petitioner had paid Rs. 2,500/- to the complainant within time as framed by Hon'ble High Court while quashing the impugned order of cognizance dated 13.02.1996 and, as such, any continuity of further proceedings would only amount to misuse of the process of the court of law.

10. Accordingly, the entire proceedings in terms of order dated 04.01.2000 as passed in Cr. Misc. No.11246 of 1996 is hereby quashed and set aside *qua* petitioner.

11. The application stands allowed.

12. Let a copy of the judgment be communicated to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04-05-2024
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