

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54098 of 2018

Arising Out of PS. Case No.-36 Year-2016 Thana- RAMPUR CHAURAM District-
Jehanabad

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Girajanand Singh @ Girja Singh Suman @ Girja Prasad Suman Son Of Late
Dudheshvar Singh, Resident Of Mohalla Ojha Vigha Badrabad,
Makudumabad, P.S.- Arwal, District- Arwal.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sri Gopal Singh, Son of Late Surkhot Singh, resident of Village- Sarau, P.S.
Rampur Chauram, District- Arwal.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Chandra Bhushan Prasad, Advocate Mr.Utkarsh Bhushan, Advocate Mr.Kanhiya Kishore, Advocate
For the Opposite Party/s	:	Mr.Ram Bilash Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 20-07-2024 The complainant / Opposite Party No. 2 lodged a

complaint against one Muni Lal Singh, stating, inter alia that on

being requested by Muni Lal Singh, he gave loan of Rs.

1,00,000/- withdrawing the said amount from his bank account

maintained in the Bank of India on 11th of December, 2014. At

the time of receipt of the said amount, the accused promised the

complainant that he would return the said amount within one

year but he failed.

2. On 18th of May, 2016, the complainant issued a

notice through his learned Advocate but Muni Lal Singh did not

receive the said notice. He also denied to pay the said amount



and told the complainant on 15th of June, 2015 that one Grija Singh Suman (petitioner) would pay him Rs. 27,000/- out of the said loan amount.

3. Learned C.J.M., Arwal sent the said complaint to the jurisdictional police station under Section 156 (3) of the Cr.P.C., directing the SHO, Rampur to treat the said complaint under Section 156 (3) of the Cr.P.C. and start a specific case against the accused. Accordingly, police registered Rampur Chauram P.S. Case No. 36 of 2016 on 7th of December, 2016 under Section 406 of the IPC. After completion of investigation, police submitted final report against the accused persons. In spite of service of final report, learned ACJM-I, Arwal took cognizance of offence under Section 406 of the IPC against the said Muni Lal Singh and the present petitioner for an offence under Section 406 of the IPC.

4. It appears from the record that in the petition of complaint, the Opposite Party No. 2 did not make any allegation against the petitioner. The police also submitted report in final form before the learned ACJM-I, Arwal and no monetary transaction was made between the petitioner and the Opposite Party No. 2. Therefore, he cannot be prosecuted under Section 406 of the IPC.



5. The order of cognizance passed by the learned ACJM-I, Arwal against the present petitioner is absolutely bad in law and accordingly the same is quashed.

6. The instant application under Section 482 of the Cr.P.C is allowed.

(Bibek Chaudhuri, J)

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