

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.10128 of 2023**

Arising out of PS. Case No.-961 Year-2022 Thana- BHOJPUR COMPLAINT CASE District-  
Bhojpur

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Ajay @ Ajay Watas, (Male) aged about 38 years, Son of Shri Pal, R/o  
Matnauli (75), Panipat, Haryana 132122.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amitabh Amrit Raj Son of Ram Chandra Singh R/o Gaudiha, P.O.- Bigha,  
P.S.- Sahar, Dist- Bhojpur, Bihar.

... .. Opposite Party/s

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**Appearance :**

|                           |   |                                                                                       |
|---------------------------|---|---------------------------------------------------------------------------------------|
| For the Petitioner/s      | : | Mr. Priyajeet Pandey, Advocate<br>Ms. Megha, Advocate<br>Mr. Kaustubh Kumar, Advocate |
| For the Opposite Party/s: |   | Mr. Ram Sevak Choudhary, APP                                                          |

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**CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY  
ORAL JUDGMENT**

**Date : 24-07-2025**

Heard Mr. Priyajeet Pandey, learned counsel for the  
petitioner assisted by Ms. Megha and Mr. Kaustubh Kumar,  
learned counsels and Mr. Sevak Choudhary, learned Additional  
Public Prosecutor for the State.

2. Petitioner seeks quashing of the order dated  
21.11.2022 passed by learned Judicial Magistrate, 1<sup>st</sup> Class,  
Bhojpur at Ara by which the learned trial Court has issued  
summon against the petitioner as well as the entire proceeding of  
Complaint Case No. 961(C) of 2022.

3. Notices were issued to opposite party no. 2 on  
19.06.2023 by both modes and again fresh notices were issued on  
17.10.2024 by both modes but despite valid service of notice to



opposite party no. 2 by registered cover with A/D and the same being received personally, he has neither appeared before this Court personally nor through his counsel.

4. The prosecution case is to the effect that the complainant previously used to live in Sonapat, Haryana when he used to work at the ICD State Transport. At that time, the complainant had two buses which used to ply in the name of Haryana State Road Lines. Thereafter, the complainant requested the petitioner for sanction of loan and for the purpose of the same the complainant submitted his Aadhar Card, PAN Card, Passbook etc. but the loan was not sanctioned. It is further alleged that the petitioner asked the complainant for bringing some other person's documents for sanctioning the loan, as such, he has brought the documents of two persons namely Lakhan Lal Singh and Dharamsheela and their loan has been sanctioned and for the said purpose they had been demanded Rs. 1,00,000/- each but on account of non-fulfilment of the same to the complainant the present complaint has been lodged.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. Learned counsel for the petitioner further submits that the petitioner was an accountant, having a Tax Consultancy Firm in



Panipat, Haryana and there is no concern of petitioner in sanctioning the loan. It is next submitted by learned counsel for the petitioner that there is no bank transaction or any agreement between the parties to show that the aforesaid amount was to be paid to complainant. Learned counsel for the petitioner has also drawn attention of this Court towards the judgment of Hon'ble Supreme Court rendered in the case of **Madhavrao Jiwajirao Scindia and Ors vs. Sambhajirao Chandroji Rao Angre and Ors.** reported in (1998) 1 SCC 699 wherein the Hon'ble Supreme Court has held as under:-

*"The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence, It is also for the court to take into consideration and special feature which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."*

6. Learned counsel has further drawn attention of this

Court towards the judgment of Hon'ble Supreme Court in the case



of **P.S. Meherhomji Vs. K.T. Vijay Kumar (2015) 1 SCC 788** reported in **(2015) 1 SCC 788** by which Hon'ble Supreme Court has reiterated its earlier decision. The relevant paragraphs 13 and 14 are as under:-

*"13. Indisputably, judicial process should not be an instrument of operation or needless harassing. The court should be circumspect and judicious in exercising discretion and should take all the relevant facts and circumstances into consideration before issuing process lest it would be an instrument in the hands of private complainant as vendetta to harass the persons needlessly.*

*14. It is equally well settled that summoning of an accused in a criminal case is a serious matter and the order taking cognizance by the magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of court and to quash the proceeding instituted on the complaint but such power could be exercised only in cases where the complaint does not disclose any offence or is vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance is taken by the Magistrate it is open to the High Court to quash the same in exercise of power under Section 482."*

7. The fact that a complaint must contain specific facts such as the date, mode and circumstances of the alleged payment to establish the offence is no more *res integra*. Without such



details the complaint is an abuse of the process of law. The Court is reminded of the judgment passed by the Hon'ble Supreme Court in the case of **G. Sagar Suri and Anr. vs. State of Uttar Pradesh and Ors.** reported in **(2000) 2 SCC 636** wherein the Hon'ble Supreme Court had quashed the criminal proceeding where the allegations of non-returning money were vague and appear to be a counter-blast and also appears to be a civil suit. The Court had also taken note of the fact that criminal proceedings should not be used to settle monetary disputes without clear evidence of criminal intent.

8. In the case of **V. Y. Jose and Anr. vs. State of Gujarat and Anr.** reported in **(2009) 3 SCC 78**, the Hon'ble Supreme Court has held that for any offence of cheating or criminal breach of trust the complaint must clearly show the cause or intention to deceive or cheat at the time of transaction. The Court had observed that if complainant fails to provide details of payment, the cognizance order must be quashed for lack of specificity. Likewise, this Court finds that the allegations made in the present complaint are vague as there are no specific dates or the mode of payment of the alleged amount stated in the complaint and, therefore, the complaint fails to establish the ingredients of a criminal offence like cheating (Section 420 IPC) as there is no



proof of fraudulent intent at the time of receiving the money and neither could it be inferred from the vague allegations.

9. This Court has taken note of the fact that the complainant had not provided *prima facie* evidence or specific details in the complaint or during the inquiry and, thus, the decision to summon the petitioner is done in a mechanical or improper manner

10. Considering the aforesaid submissions and legal proposition cited by learned counsel for the petitioner and the settled position of law, I am of the view that there is no proof of bank transaction between the parties as well as there is no agreement of any kind between them for transaction of money, therefore, the continuation of criminal proceeding in such circumstances would amount to an abuse of the process of law and would result in a miscarriage of justice in the light of Hon'ble Supreme Court decision in the case of **State of Haryana and Ors. Vs. Bhajan Lal and Ors [(1992) Supp (1) SCC 335]**, wherein the Hon'ble Supreme Court in paragraph 17 has held as under:-

*"17. this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under Section 482 Cr. P.C. could be exercised. Para 102 of the decision reads as follows: '102. In the backdrop of the interpretation of the various*



*relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as*



*contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

11. In view of the aforesaid legal and factual submissions and also taking note of the aforesaid legal proposition of Hon'ble Supreme Court, therefore, the continuation of criminal proceeding in such circumstances would amount to an abuse of the process of law and would result in miscarriage of justice.

12. Accordingly, the order dated 21.11.2022 passed by learned Judicial Magistrate, 1<sup>st</sup> Class, Bhojpur at Ara by which the learned trial Court has issued summon against the petitioner as



well as the entire proceeding of Complaint Case No. 961(C) of 2022 qua the above named petitioner is hereby quashed.

13. In the result, the present quashing application stands allowed.

(Sourendra Pandey, J)

Vikash/-

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