

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.369 of 2024

Arising Out of PS. Case No.-287 Year-2016 Thana- Darbhanga Sadar District- Darbhanga

Sagar Verma Son of Late Parasnath, R/o Village- Malgodam, Ward No. 15,
Post- Nawada, Ps- Nawada Dist- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manish Sinha Son Of Late B.L.P. Sinha Village- Ps- Kankarbagh, Dist- Patna, Bihar, Posted As Duster Head, Sis Cash Services.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Akanksha Malviya, Advocate Mr. Akash Keshar, Advocate Mrs. Savita Ali, Advocate
For the State	:	Mrs. Asha Kumari, A.P.P.
For the Informant	:	Mr. Rohit Kumar, Advocate Mr. Rajnish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 25-02-2025 The instant criminal revision is directed against an order dated 18.08.2023 passed by the learned Additional Chief Judicial Magistrate-IV, Darbhanga in T.R. No.704 of 2023/CRI-2530 of 2016, whereby and whereunder petitioner's application under Section 239 of the Cr.P.C. was rejected by the learned Magistrate and he was directed to be put to trial.

2. In order to ascertain the issue involved in the instant criminal revision it is necessary to state the following fact:

“On the basis of a written complaint submitted by Manish Sinha on 21.07.2016, Darbhanga Sadar P.S. Case No.287 of 2016 dated 21.07.2016 under Sections 420, 409, 467,



471, 379, 120(B) of the I.P.C. was registered against the petitioner and two other persons. The accused persons are indisputably employees of SIS Cash Service an outsourcing agency under N.C.R. Corporation with whom State Bank of India has an agreement to upload cash money in different ATM Centres run by State Bank of India around Darbhanga Region.”

3. Indisputably, the petitioner was given the password to operate the ATM so far as it relates to depositing money the process of depositing money is that on uploading the password in the system an OTP is sent from the bank and the ATM Volt opens with the insertion of OTP.

4. The written complaint submitted by Manish Sinha contains an allegation that on 16.07.2016 there was shortage of a sum of Rs.10,61,500/- (Rupees Ten Lakh Sixty-One Thousand Five Hundred only) in the ATM in question. Subsequently, the entire transaction regarding deposit of money and withdrawal of money was closely examined by the informant and he found a disparity of Rs.10,61,500/- missing from the volt of the ATM. The complaint also suggests that the petitioner was on leave from 9th July, 2016 to 20th July, 2016 on account of his marriage. On the date of occurrence, he was on leave. The F.I.R. was registered on 21.07.2016.



5. It is the case of the petitioner that at the time of his departure on leave he transferred the password to one Bhavnath Vats. The learned Advocate on behalf of the informant submits that the petitioner did not get any approval of his higher authority before transferring the password to Bhavnath Vats. However, he could not give any satisfactory reply that if the petitioner proceeded for availing leave with password in its possession how could the money have been kept in the vault of the ATM.

6. It is further contended on behalf of the informant that the petitioner has been implicated in this case with the aid of Section 120B of the I.P.C. However, there is no specific ingredient in support of the charge under Section 120B of the I.P.C. in the case diary. The Investigating Officer failed to collect any evidence that there was meeting of minds between the present petitioner and Chandan Kumar and Bhavnath Vats regarding transfer of password and theft of money from the ATM.

7. The learned Additional Chief Judicial Magistrate-IV, Darbhanga refused to discharge the petitioner on the ground that the petitioner was absent on leave during the period from 09.07.2016 to 20.07.2016. No evidence was collected to



established even prima-facie that the petitioner hatched a conspiracy with Bhavnath Vats and Chandan Kumar for withdrawal of money. The case diary on the other hand shows that the petitioner was absent from his duty during the relevant period. Paragraph Nos. 3 & 4 of the case diary do not contain any allegation against the petitioner.

8. Considering such aspect of the matter, this Court is of the view that the learned Additional Chief Judicial Magistrate-IV, Darbhanga has committed material irregularity and illegality in assessing the scope of Section 239 of the Cr.P.C.

9. For the reasons stated above, the impugned order so far as it relates to the petitioner herein is set aside. The petitioner is discharged from the case being Darbhanga Sadar P.S. Case No.287 of 2016 dated 21.07.2016 corresponding to T.R. No.704 of 2023/CRI-2530 of 2016.

10. Accordingly, the instant criminal revision is thus allowed on contest, there shall however no order as to cost.

(Bibek Chaudhuri, J)

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