IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55794 of 2016

Arising Out of PS. Case No.-530 Year-2013 Thana- LAHERIYASARAI District- Darbhanga

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Bisheshwar Ray son of Late Ram Yadav resident of Village- Pingi, P.S.- Bahadurpur, District- Darbhanga.

... ... Petitioner/s

Versus

1. State of Bihar
2. Niranjan Kumar, Branch Manager, Bihar State Co-Operative Bank Ltd., Darbhanga Branch.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate
Mrs. Sweta Suman, Advocate
Mr. Vikash Kumar, Advocate
Mr. Amar Kumar, Advocate
Mr. Prabhat Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

3 21-04-2026 1. The present application has been filed invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure for quashing of the order dated 15.01.2016 passed by the learned Chief Judicial Magistrate (hereinafter referred to as 'Trial Court'), Darbhanga in connection with Laheriasarai P.S. Case No. 530 of 2013, whereby cognizance has been taken for the offences punishable under Sections 409, 420 and 34 of the Indian Penal Code against the accused persons, including the petitioner, as well as for setting aside the order dated 28.06.2016 passed by the learned Sessions Judge, Darbhanga (hereinafter referred to as

'Revisional Court') in Criminal Revision No. 99 of 2016 affirming the cognizance order.

2. The prosecution case, as emanates from the F.I.R is that as per the order of cooperative department of Bihar Government, the paddy and wheat of farmers were to be purchased through PACS and to give the same to Bihar State Food Corporation, of Darbhanga unit for which a tripartite agreement was made and on that basis, a certain cash credit limit was given to different PACS. On the basis of that facility, the cheques issued by PACS for farmers were honoured. For financial year 2011-12 and 2012-13, the cheques issued by some PACS to farmers for purchase of paddy or wheat and payment has made for such cheques but neither paddy or wheat has not been deposited to BSFC, Darbhanga unit nor any refund of amounts were received by the bank. The bank account of PACS is in Bihar State Cooperative Bank, Darbhanga branch which is run by joint signature of President and Manager/Executive Members. It is stated therein that Baruara PACS – chairman was Mohibur Rahman and Executive Members was Bisheshwar Ray(Petitioner). As per complaint, total balance amount was Rs. 79,977.90 with interest thereupon has not been deposited by Baruara PACS Ltd. for the transaction taken place during the

period of 07.02.2012 to 13.09.2012. Similar allegation is made against two other PACS members. On such allegation via letter no.277 dated 01.11.2023, Laheriasarai P.S. Case No. 530 of 2013 was instituted against the accused persons, including the petitioner herein, for the offences punishable under Sections 409, 420 and 34 of the Indian Penal Code on 12.112013.

3. Upon completion of investigation, the police submitted charge-sheet bearing no.570 of 2015 dated 21.12.2015 against the accused persons, including the petitioner, for the offences punishable under Sections 409, 420 and 34 of the Indian Penal Code. On the basis of the said charge-sheet, F.I.R and case diary, the learned Trial Court found a *prima facie* case against accused person including petitioner herein and accordingly took cognizance of the aforesaid offences against the petitioner *vide* order dated 15.01.2016. Aggrieved by the said order, the petitioner preferred Criminal Revision No. 99 of 2016 before the Revisional Court. The learned Revisional court dismissed the revision petition and affirmed the order taking cognizance *vide* order dated 28.06.2016. Aggrieved thereby, petitioner preferred this present application.

4. Heard learned counsel for the parties and perused the materials on records.

5. Learned counsel for the petitioner submits that the order taking cognizance against the petitioner as well as the order passed in revision affirming the same are wholly unsustainable in the eyes of law, having been passed without proper appreciation of the materials available on record. Learned counsel further submits that the petitioner had already resigned from the post of Secretary as well as from the Executive Committee of Baruara PACS on 02.09.2010, much prior to the alleged transactions which are stated to have taken place from 06.08.12 to 13.09.2012 in Baruara PACS Ltd., and therefore, he had no concern whatsoever with the affairs or financial transactions of the said PACS at the relevant point of time. Learned counsel further submits that after resignation, the bank account of the PACS was being operated by the Chairman, namely Mohibur Rahman, along with another authorized signatory, Md. Shamsher, and all the alleged cheques in question were issued under their joint signatures, without any involvement of the petitioner, yet the learned Trial Court proceeded to take cognizance in a mechanical manner and the learned Revisional Court also failed to appreciate these vital aspects while affirming the same.

6. Learned counsel for the petitioner further submits

that even the O.P No.2 himself, *vide* letter dated 30.06.2014, has categorically stated that the name of the petitioner was inadvertently mentioned in the complaint and requested for substitution with the name of the actual signatory and further petitioner has given a detailed representation before senior S.P., Darbhanga on 22.01.2015 for requesting to enquired the matter thoroughly and exonerating him from the present police case and a copy of his representation was served to the I.G., Darbhanga Range for taking necessary action. However, the said material document has neither been considered during investigation nor by the Trial Court as well as the Revisional Court. Learned counsel submits that the entire alleged amount has already been deposited by the co-accused and a “No Dues Certificate” has been issued by the Bank, and further, no incriminating material has been recovered from the possession of the petitioner nor is there any material to establish entrustment or dishonest intention on his part so as to attract the provisions of Sections 409 or 420 of the Indian Penal Code. It is further submitted that the investigation has been conducted in a perfunctory and mechanical manner without collecting vital evidence, including verification of actual signatories of the cheques, and as such, even if the entire prosecution case is taken at its face value, no offence is made out against the petitioner, and continuation of the proceeding would amount to abuse of the process of the Court, warranting interference to secure the ends of justice.

7. Learned APP for the state fairly submits that informant(O.P. No. 2) *vide* letter 568 dated 30.06.2014 (Annexure-5) informed the SHO, P.S. Laheriasarai that the name of petitioner was inadvertently due to typing mistake included in the FIR in place of Md. Shamsher. He further conceded that the dues amount of bank has already been paid by the concerned PACS for which no dues certificate dated 18.09.2014 has been issued by the informant bank. Accordingly, he submits that appropriate order may be passed in the interest of justice.

8. Before adverting to the merits of the case, it would be appropriate to briefly dicuss the settled legal position governing the exercise of inherent powers under Section 482 of the Code of Criminal Procedure. It is well established that the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is wide in its scope; however, such power is to be exercised with great caution, restraint and only in exceptional circumstances, either to prevent abuse of the process of the

court or to secure the ends of justice.

9. Having heard the learned counsel for the petitioner as well as the learned A.P.P. for the State and upon perusal of the materials available on record, it appears that the allegation against the petitioner in the present case is that he was executive member of Baruara PACS, whose bank account was with informant bank where credit facility was provided and the bank account was run by joint signature of President and Manager/Executive Member and Rs.79,977.90 along with interest was not deposited by Baruara PACS with bank. The transaction relates from 06.08.2012 to 13.09.2012. Subsequently , the dues amount was also deposited by Co-accused and no dues certificate was issued by the informant bank.

10. In the present case, the petitioner contended that he had already resigned from the post of Secretary as well as from the Executive Committee of Baruara PACS on 02.09.2010, much prior to the alleged transactions taken place from 06.08.2012 to 13.09.2012, and as such, he had no concern whatsoever with the affairs or financial transactions of the said PACS at the relevant point of time. In order to substantiate the said claim, the petitioner has produced a true copy of his resignation and has also brought on record a letter dated

30.06.2014 issued by O.P. No. 2 to the officer-in-charge of Laheriasarai police station, wherein it has been categorically stated that the name of the petitioner was inadvertently mentioned in the complaint and a request has been made for substitution of the same with the name of the actual signatory. In the light of these undisputed documents, it appears that the petitioner was not holding the aforesaid post at the time of the alleged irregularities.

11. It is pertinent to note that while considering a prayer for quashing of a criminal proceeding at the threshold, the Court is required to examine whether the allegations made in the complaint, taken at their face value and in conjunction with the materials brought on record, disclose the commission of any offence so as to constitute a prima facie case against the accused for proceeding further. This principle has been consistently reiterated by the Hon'ble Apex Court in a catena of Judgments including ***State of Haryana and Ors. v. Bhajan Lal and Ors.***, reported in ***1992 Supp (1) SCC 335*** and ***Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr.***, reported in ***2025 SCC OnLine SC 1947.***

12. In view of the aforesaid discussion, it prima facie appears that the essential ingredients of the offences alleged

against the petitioner are not made out from the materials available on record, and continuation of the criminal proceeding against the petitioner would amount to abuse of the process of the Court.

13. Accordingly, the present application is allowed. The order of Revisional Court dated 28.06.2016 and order of Trial Court dated 15.01.2016 is hereby quashed and the entire criminal proceeding in connection with Laheriasarai P.S. Case No.-530 of 2013 against the present petitioner stands set aside.

14. Let a copy of this order be communicated to the court concerned forthwith for information and necessary compliance.

(Sunil Dutta Mishra, J)

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