IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43644 of 2016

Arising Out of PS. Case No.-980 Year-2014 Thana- GAYA COMPLAINT CASE District-Gaya

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A. K. Bhatia Son of late S.C. Bhatia at Present posted as Chairman, Madhya Bihar Gramin Bank, Head Office, Shri Vishnu Vihar Commercial Complex, NH 30 Ashochak, New Bye Pass, Patna.

... ... Petitioner/s

Versus

1. State Of Bihar and Anr
2. Rajesh Kumar S/o Raj Kumar Prasad A/p resident of Village Rakasia, PO and PS- Tekari, Distt Gaya.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Suresh Prasad Singh No.1, Advocate
	:	Mr. Kumari Rashmi
For the State	:	Mr. Shyam Kumar Singh APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

6 13-01-2026

Heard the parties

2. None has appeared for Opposite Party No. 2 despite valid service of notice.

3. This application has been filed for quashing of the order dated 05.01.2016 passed by the learned J.M. First Class, Gaya whereby cognizance has been taken against the petitioner U/s 406 and 420 of the IPC in connection with complaint case no. 980/2014 and process has been issued.

4. The prosecution case in brief is that a complaint case was lodged by the Opposite Party No. 02 on 18.06.2014 before the learned C.J.M., Gaya, alleging in the complaint that he is a businessman and that on 28.03.2001 he had deposited an amount of Rs. 25,000/- in the *Madhya Bihar Gramin* Bank (herein after referred to as "Bank") for 96 months in the name of his minor daughter, the maturity date of which was 28.03.2009 but the documents given by the bank to the father of the complainant was misplaced, which was informed to the manager of the said Bank and the complainant was assured by the manager that all possible assistance will provided to him, however, no satisfactory response was given for around 05-06 months. Whenever he tried to contact the bank, he was ousted from the bank through the peon and was later informed that the said amount has already been encashed in 2004. Further it is stated that by way of an R.T.I. application, the complainant got the information that there were some interpolations in the records, and the fixed period of 96 months was reduced to 36 months, and that the amount has been remitted in his savings bank account on 28.03.2004, which according to the informant is not justified. It is further alleged that ledger no.4608 was also changed and original copy of the statement and original voucher was not shown to the complainant. The complainant has further alleged that the Branch Manager had allegedly said to the Regional Manager, that the complainant has been disturbing him by making complaints before the Collector Gaya, thereupon allegedly the Regional Manager directed a person to catch hold of the complainant and obtained his signature on two plain papers and also threatened the informant. Therefore, aggrieved by the aforesaid, the complainant approached the Civil Lines P.S., but the accused Regional Manager and the Branch Manager were found sitting there, due to which he was unable to lodge a F.I.R and hence has filed the present complaint.

5. Thereafter the complainant was examined on S.A, but he has made no allegations against the petitioner and apart from the complainant two witnesses have been examined on behalf of the complainant out of which there is one Anil Kumar who is his friend, he too has not even whispered about any involvement of the Petitioner in the case similarly another witness Uma Shanker Sharma was also examined and even he did not say anything about the petitioner.

6. It has categorically been submitted by the learned counsel for the petitioner that he was posted as the Chairman of the aforesaid bank in the year 2014, i.e., much after the alleged date on which the purported interpolation was made in the year 2004. He has next submitted that on an earlier occasion the O.P. no.2 had moved before this Hon'ble court vide

CWJC no. 7491 of 2012, wherein he has alleged that his father had deposited fixed deposit in the name of his minor daughter however the Hon'ble court disposed of the said application by giving a direction that the dispute relates to matter of accounting, and thus the writ petitioner may approach the Banking Ombudsmen ventilating his grievance.

7. The learned counsel for the petitioner submits that the learned court below has not even obtained sanction before taking cognizance as required u/s 197 of the Cr.P.C., as the chairman is considered as a public servant, thus it may be said that the order impugned suffers from patent illegality. Also , there must be cogent evidence against the petitioner for facing the trial under sections 406 and 420, and admittedly there is no role of the petitioner assigned by any of the witnesses, hence taking cognizance dated 5.01.2016 is bad in the eye of law.

8. Lastly, he submits that the complainant remained mum for two years and thereafter, filed the complaint in the year 2014 for the alleged offence of 2001 or hardly 2004, and unfortunately the magistrate took cognizance U/s 406 and 420. Moreover, in the writ application, which was filed on oath, he had stated that his father has deposited FD with the Tekari

BO of the MBGB, whereas in the complaint he has alleged to have deposited by his own, that speaks enough about his falsehood and malice behind the case.

9. The learned APP has opposed the present petition.

10. From the perusal of the complaint petition, it appears that no allegation is leveled against the present petitioner who had joined as a bank official after almost 10 years from the alleged date of interpolation in the official records of the bank.

11. The petitioner is the Chairman of the bank, and from the records it appears that, the sanction has not been taken before proceeding against the him which is in complete violation of the section 197 of the Indian Penal Code.

12. Therefore considering the fact no specific allegation against the instant petitioner had been made and therefore the continuance of the criminal proceeding against him would be an abuse of the process of law together with the fact that the cognizance order is bad since it is in teeth of the law laid down by the Hon'ble Supreme Court in the case of ***G.C. Manjunath & Ors vs. Seetaram***, reported as ***(2025) 5 SCC 390***, the impugned order taking cognizance is unsustainable.

13. Accordingly the impugned order taking cognizance dated 05.01.2016 passed by the learned J.M. First Class, Gaya is quashed and set aside *qua* the petitioner only.

14. The present application is allowed.

(Sandeep Kumar, J)

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