

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.1608 of 2020**

Arising Out of PS. Case No.-99 Year-2017 Thana- AGAMKUAN District- Patna

Smt. Anjana Singh, daughter of late Padam Nath Singh, resident of Flat no. 506, Bimla Raj Enclave, Near Yadav Timber, P.S.- Agamkuan, District- Patna  
... .. Petitioner

Versus

1. The State of Bihar
2. Deepak Kumar Son of Late Ashok Kumar Singh Resident of Mahatma Gandhi Nagar, Kanti Factory Road, Kankarbagh, P.S.- Agamkuan, Town- Patna, District- Patna

... .. Opposite Parties

**Appearance :**

For the Petitioner	:	Mr. Tej Bahadur Singh, Sr. Advocate Mr. Sanjeet Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Opp. Party No.2	:	Mr. Sunil Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**CAV JUDGMENT**

**Date : 03-07-2025**

Heard learned Senior Counsel for the petitioner, learned APP for the State and learned counsel for the opposite party no.2.

2. The present application has been preferred under section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), by the petitioner assailing the order taking cognizance dated 18.03.2019 passed by the Additional Chief Judicial Magistrate, Patna City, whereby the learned Magistrate has taken cognizance against the petitioner for the offence under sections 419, 420, 467, 468, 471, 120-B read with section 34 of the Indian Penal Code ( for short 'I.P.C.') in connection with



Agamkuan P.S. Case No. 99 of 2017.

3. The case of the prosecution, in brief, relevant for the present application is that the informant - Deepak Kumar had made a written complaint before the officer-in-charge of the Agamkuan Police Station on 05.03.2017 stating therein that he has a joint property with his elder brother namely, Jai Shankar Singh situated at Anand Path, Kati Factory Road, Patna and that the elder brother of the informant had formed/incorporated a firm in the name of 'Maa Vaishno Sales' in which his elder brother had made his wife Sunita Devi (*bhabhi* of the informant) as the proprietor of the aforesaid firm. It was alleged by the informant that his brother and *bhabhi* had conspired with the present petitioner, who was the Branch Manager of Punjab National Bank, Kati Factory Road, Patna, to sanction a Cash Credit ( for short 'CC') Loan (Business Loan) in favour of the firm to the tune of rupees One Crore and Thirty Lakhs, for which the joint property was mortgaged without the signature or the consent of the informant in flagrant misuse of her post.

3.1. It is further alleged that after the loan was sanctioned, the accused persons had distributed the amount amongst themselves. Upon learning about the sanction of the loan, the informant met with his brother and his wife on



05.02.2017 asking them to repay the loan however, they not only refused to repay the aforesaid loan but also stated that they are not concerned even if the mortgaged property is auctioned by the bank. Based on the written complaint of the informant, Agamkuan P.S. Case No.99 of 2017 was lodged against the accused persons including the present petitioner.

4. After investigation, the Police submitted charge-sheet against the accused persons including the present petitioner under sections 419, 420, 467, 468, 471, 120B read with section 34 of the I.P.C. and thereafter vide the impugned order dated 18.03.2019 cognizance of the offences under aforesaid mentioned section was taken.

5. The learned Senior Counsel for the petitioner submits that the petitioner is working at Punjab National Bank in the SMG Scale-IV and is presently posted at New Market Branch as Chief Manager. He further submits that the crux of the issue is that the co-accused Jay Shankar Singh and his wife Sunita Devi had formed/incorporated a firm in the name of 'Maa Vaishno Sales' and the aforesaid co-accused persons had filed an application before the Kati Factory Road branch of the Punjab National Bank for grant of a C.C. loan in favour of the said firm on 30.01.2015 and the aforesaid file was placed before



another staff of the bank namely, Usha Kumari, who was working as J.M.G.-II in the bank.

6. It is the submission of the learned Senior Counsel for the petitioner that once the Bank is in receipt of the application for grant of loan, the Loan Manager of the Bank upon scrutiny of the papers and after an interview with the loanee prepares the pre-sanction appraisal and thereafter makes a proposal to the Chief Manager of the Bank recommending grant of loan. The Chief Manager is normally the final sanctioning authority for approval or rejection of the loan application. The learned Senior Counsel enlists the supporting documents which are ordinarily accompanied with a loan application which include – audited balance sheets, Income Tax Returns, KYC documents, photographs, security papers, latest rent receipts, valuation of property carried out by the approved/registered valuer of the bank and title research report of the mortgaged property done by the approved/empanelled advocate of the Bank.

7. The learned Senior Counsel further submits that in the present case also when the Manager (Credit/Loan) made a recommendation to the Chief Manager-petitioner, she had carefully perused the supporting documents including the



recommendation of the Manager (Credit/loan) and the valuation report of the property, which was done by an approved/empaneled valuer of the bank. During the process of scrutiny of the supporting documents, the petitioner found that there was no dispute with regard to the title of the mortgaged property since the empanelled advocate had opined that the said property is free from all encumbrances and the Bank could mortgage the property as security in order to sanction the loan. After considering the aforesaid facts, the loan was sanctioned.

8. It is particularly emphasised by the learned Senior Counsel for the petitioner that no deficiency was waived while sanctioning the loan since no deficiency was ever pointed out in the recommendation of the Manager (Credit/Loan) or in the valuation report or even in the title search report. Therefore, it is submitted that there was no occasion for the petitioner to waive any deficiency. The learned Senior Counsel points out that the recommendations in which no deficiency/defect is pointed by the Manager (Credit/Loan) are known as absolute recommendations and in the present case also an absolute recommendation was made.

9. It is next submitted by learned Senior Counsel for the petitioner that a concurrent auditor who was



also posted at the Bank also did not point out any deficiency in the loan documents. A special investigation of the aforesaid loan account was carried in September, 2019 i.e. after the loan account was declared as N.P.A. by the Bank in the month of April 2017. In the special investigation also, no procedural lapses or defects/deficiencies were pointed out. The learned Senior Counsel for the petitioner therefore reiterates that neither the concurrent auditor nor the statutory auditors could point out anything adverse in the loan documents or find any procedural lapse in the grant of loan.

**10.** It is further submitted that the loan account was declared as N.P.A. in April, 2017 and subsequently the Bank had preferred an application under section 19 of the Recovery of Debts and Bankruptcy Act, 1993 before the Debts Recovery Tribunal, Patna, which was registered as O.A. No. 329 of 2018 and the same was decided in favour of the Bank vide order dated 18.09.2018. Subsequently, the Bank had settled the loan in the year 2019 at Rs.1,03,00,000/-, against which an amount of Rs.65,09,516/- have already been paid by the loanee to the Bank. In this regard, a certificate was also issued by the Bank in acknowledging the same on 26.09.2019.

**11.** So far as the allegation of enhancement of



loan is concerned, the learned Senior Counsel has submitted that initially another employee of the Bank, namely, Usha Kumari had recommended the proposal of loan in favour of the firm for approval of CC Loan of Rs.50,00,000/- and therefore based on the aforesaid recommendation the petitioner had approved the loan of Rs.50,00,000/- to the firm. It is submitted that thereafter another application was made by the proprietor of the firm for enhancing the CC Loan and subsequently after considering the relevant documents and making the necessary verification, one S.N. Thakur, Senior Manager of the Bank had forwarded the concerned file for enhancement of CC loan to the tune of Rs.80,00,000/-. It is emphasised by the learned Senior Counsel for the petitioner that based on the recommendation forwarded by the Senior Manager namely, S.N. Thakur, the petitioner had approved the CC Loan enhancement on 17.07.2015. It is pointed that since the grant of the CC loan till the month of August, 2016 there was good transaction in the bank account of the firm however, from September, 2016 the transactions started deteriorating.

**12.** The submission of the learned Senior Counsel for the petitioner regarding sanctioning and subsequent enhancement of the CC loan is that the petitioner acting as the



Chief Manager of the Branch had no direct role to play in the same. It was on the basis of the initial recommendation of one Usha Kumari and thereafter on the recommendation of Senior Manager, S.N. Thakur the petitioner had sanctioned the CC loan and subsequently enhanced the same.

**13.** It is next submitted that before the sanction of the CC loan, a title search report was submitted by the empanelled advocate wherein nothing is stated with regard to the title of the present informant on the mortgaged property in question. It is argued by the learned Senior Counsel that the informant has filed the present criminal case with a malicious intention to defame the petitioner and to exert undue pressure on the Bank for settling/managing the loan amount which is outstanding in the name of his brother and his brother's wife (*bhabhi*).

**14.** It is argued by learned Senior Counsel for the petitioner that co-accused Jai Shankar Singh and the informant Deepak Kumar are own brothers and they are in connivance with each other which is exemplified from the fact that the informant had also taken a loan from the Budha Colony Branch of the Punjab National Bank on the same joint family property. When the informant could not repay the loan amount





and the same came to the knowledge of his elder brother then in March, 2017 a Title Suit being Title Partition Suit No.79 of 2017 was filed in the Court of Sub-Judge-I, Patna City. Therefore, the act of the informant and his brother suggests that they are in collusion with each other and have no intention to repay their respective loan amounts and in order to avoid repayment they choose to create undue pressure by filing false and fabricated cases.

**15.** The learned Senior Counsel draws the attention of this Court to the conduct of the informant in not disclosing the fact that he himself had taken a loan on the said property from Budha Colony Branch of the Bank and had not liquidated the loan amount. This was a deliberate attempt to suppress this fact from the Police that he himself had mortgaged the said property without the consent of his elder brother, who is a co-accused in the present case.

**16.** The learned Senior Counsel has vehemently argued that the Police had not recorded the statement of the petitioner during the course of investigation. It is submitted that had the police recorded the statement of the petitioner then the true facts about the case would have emerged and there would not have been any material to file the chargesheet against the



petitioner.

**17.** The learned Senior Counsel has further argued that when the offence under section 409 of the IPC is not made out against the petitioner on the basis of the allegation, then the allegation of having received any pecuniary advantage / benefit or illegal gratification itself would not survive. Importing to the provisions of Section 463 of the I.P.C. the learned Senior Counsel argues that no offence under section 467 of the I.P.C. is made out since in the present case, no forgery was committed on any of the loan documents by the petitioner or in fact even by the co-accused persons. The loan documents were processed in the Bank as it were received from the loanee and there was no allegation of any defective title in the title search report. Further, since no material has come to fore regarding forgery for the purposes of cheating, the rigors of section 468 would also not be attracted.

**18.** So far as the allegations under section 471 of the IPC is concerned, the learned Senior Counsel for the petitioner submits that the aforesaid section could only be attracted when a person is using a forged document as genuine and when he has reason to believe that the said document was in fact forged. It is submitted that the prosecution has failed to



bring out or point out any document which has been used by the petitioner as forged, knowing fully well that the document was forged.

**19.** The learned Senior Counsel for the petitioner submits that with regard to the offence under sections 420 and 120-B of the I.P.C. the F.I.R fails to bring out even *prima facie*, any ingredient which could constitute the offence under the aforesaid provisions. The learned Senior Counsel points out that it is imperative to state who specifically is the affected party who has been dishonestly induced to deliver property, in other words what specific wrongful loss or gain has been caused. Importing to the essential ingredients for constituting an offence under section 420 I.P.C. the learned Senior Counsel for the petitioner argues that the element of dishonest intention must be there from the very beginning. Thus, it is emphasised by the learned Senior Counsel that dishonest intention must start from the inception of the transaction itself. It has been argued that a person cannot be presumed to be guilty on the basis of loose allegations particularly when no evidence to show whether the accused had abetted the offence or entered into conspiracy. It has also been argued that in the facts of the present case the instant petitioner could not be held liable for dishonestly



inducing the Bank to deliver the loan amount and hence no case under section 420 IPC is made out.

**20.** It has been submitted by learned Senior Counsel for the petitioner that there is also no material available on record, directly or indirectly, to even remotely suggest that the petitioner had conspired with the loanee (co-accused) to sanction the loan since the petitioner in discharge of her duties, followed the prescribed procedures and thereafter had sanctioned the loan.

**21.** Lastly, the learned Senior Counsel for the petitioner submits that the petitioner is a responsible Bank official who in discharge of her official duties had sanctioned the loan after complying with the prescribed procedures, after receiving recommendations of the subordinate officials and after examining the supporting documents. The present criminal case has solely been set in motion to coerce the Bank into settling the loan amount. The informant with ulterior motive has merely concocted a false story in order to safeguard the interests of his brother and his wife and to prevent the possible auction of the property in question.

**22.** A supplementary affidavit has been filed on behalf of the petitioner to bring on record the current status of



the loan account in the name of 'Maa Vaishno Sales' which has been closed on 21.04.2023 through O.T.S. and the property paper has been handed over to the mortgager. A certificate issued by the Chief Manager of Punjab National Bank, Gandhi Nagar, has been annexed and brought on record.

**23.** The Informant/Opposite party no.2 has filed his counter affidavit. In the counter affidavit, the opposite party no.2 has reiterated the allegations of connivance between the petitioner and his elder brother (co-accused). It is further submitted that the petitioner had overlooked report prepared by the empanelled advocate of the Bank wherein under clause-4, it was clearly stated that the registration particulars as given under the title deed shown to the counsel does not tally with the particulars as stated on the records of the Office of the Registrar. Furthermore, it is stated that under Clause-13 it is reported that the mortgaged property was self-acquired property of the accused however, the very same empanelled advocate in his certificate dated 30.01.2015 reported that the said property in question had been purchased from the joint family fund and the informant - Deepak Kumar had got half of the share in the said property. It is contended by the opposite party no.2 that had the petitioner dispassionately examined the records carefully the



loan application ought to have been rejected on the ground that the mortgaged property is not the exclusive property of the loanee/guarantor.

**24.** The opposite party no.2 has thereafter submitted that the petitioner by referring to the recommendations submitted by the subordinate officers has merely attempted to shift liability whereas, it was the petitioner who was the sanctioning authority.

**25.** I have considered the submissions of the parties.

**26.** From the record, it appears that the loan of Rs.1,30,00,000/- was advanced to the firm through its proprietor namely, Sunita Devi, after mortgaging the alleged joint family property belonging to the informant and the husband of the aforesaid proprietor namely, Sunita Devi. The allegation of the informant is that the mortgaged property being a joint family property could not have been mortgaged by his elder brother namely, Jai Shankar Singh individually and the Bank officials have connived with his elder brother in advancing the loan. On the date of occurrence, the petitioner was the Chief Manager of the Bank and though the loan was finally sanctioned by the petitioner but initially investigation was done and thereafter



investigation report was submitted and when no defect/deficiency was pointed out, the Manager (Credit/Loan) made a recommendation to the present petitioner, who after carefully perusing the supporting documents and the recommendation put forth by her subordinates has approved the loan to the firm.

27. It is not in dispute that after the loan was declared as N.P.A. the loanee entered into a compromise and the loan has been finally settled which has been closed on 21.04.2023 through One Time Settlement and the papers for the mortgaged property have been returned to the loanee and a certificate in this regard has been issued by the then Chief Manager of Punjab National Bank, Gandhi Nagar.

28. Sections 471 of the IPC reads as under:-

***“471. Using as genuine a forged document or electronic record.—***

*Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.”*

29. From bare perusal of section 471 of the IPC, it is clear that forged document must be used as a genuine one.



However, from reading of the F.I.R. it is clear that no forged document has been used as a genuine one by the petitioner. No document has been brought on record by the informant which is said to have been used by the petitioner after having full knowledge that the said document was a forged documents. Upon going through the allegations levelled in the F.I.R., I am of the opinion that the offence under section 471 of the IPC is not made out against the petitioner as the ingredients of aforesaid section is lacking.

**30.** Sections 420 and 120-B of the IPC read as under :-

***“420. Cheating and dishonestly inducing delivery of property.—***

*Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”*

***120B. Punishment of criminal conspiracy.—***

***(1) Whoever is a party to a criminal conspiracy to commit an offence***





*punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

*(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]”*

**31.** From the reading of the F.I.R. it appears that the petitioner has not involved in any act of cheating as she had simply approved the loan after the documents were verified by her subordinates. Further, from the reading of the F.I.R. the petitioner can in no way be connected with the alleged offences. In my opinion, the offence under sections 420 and 120-B of the I.P.C. are also not made out. Further, from reading of the F.I.R. there is not even a whisper of allegation that the present petitioner had forged any document and therefore, the ingredients of sections 467 and 468 are also not made out against the petitioner.

**32.** The Hon’ble Supreme Court in the case of ***Tarina Sen vs. Union of India and Anr.*** reported as ***2024 SCC***



**OnLine SC 2696** has held in paragraph nos. 11 to 16 as under: -

- “11. The facts in the present case are not in dispute. It is not disputed that the matter has been compromised between the borrowers and the Bank. It has also not been in dispute that, upon payment of the amount under the OTS, the loan account of the borrower has been closed.*
- 12. Therefore, the only question would be, as to whether the continuation of the criminal proceedings against the present appellants would be justified or not.*
- 13. At the outset, we may state that we are only considering the cases of two women i.e. Accused Nos. 4 and 5. wherein Accused No. 4 is the wife of Accused No.2. It is also not in dispute that the original Accused Nos.2 and 3 have since died.*
- 14. By a separate judgment of the even date in Criminal Appeal arising out of Special Leave Petition (Criminal) No.4353 of 2018 wherein similar facts arose for consideration, we have held that when the matter has been compromised between the borrower and Bank, the continuation of the criminal proceedings would not be justifiable.*
- 15. Relying on the earlier judgments of this Court, we have held that in the matters arising out of commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of*



*matrimony relating to dowry, etc. or family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute, the High Court should exercise its powers under Section 482 CrPC for giving an end to the criminal proceedings. We have held that the possibility of conviction in such cases is remote and bleak and as such, the continuation of the criminal proceedings would put the accused to great oppression and prejudice.*

16. *We find that for the aforesaid reasons the present appeals also deserve to be allowed.”*

33. In an another decision, the Hon’ble Supreme Court in the case of ***N.S. Ganeshwaran etc. vs. the Inspector of Police and Anr.*** reported as **2025 INSC 787** has held in paragraph nos. 7, 8 and 9 as under:-

*“7. Having considered the submissions of both sides and examined the record, we are of the view that no useful purpose would be served by continuing the criminal proceedings in the present matter. The dispute has, admittedly, culminated in a comprehensive One Time Settlement under which the Bank has received the entire outstanding amount. The recovery proceedings before the tribunal have been dismissed as settled, and no residual claim survives. The Bank has not raised any*



*objection to the closure of the matter and has issued formal acknowledgments of satisfaction.*

8. *Further, in identical proceedings filed by the CBI against the appellants in C.C. Nos. 13 of 2006 and 151 of 2010, the charge sheets were quashed by the High Court after taking note of the settlement reached in the recovery proceedings. The special leave petitions preferred by the State being SLP (Crl) No. 711 of 2021 and SLP (Crl) No.825 of 2021 challenging the said quashing were dismissed by this Court, rendering the orders final. Since the facts and legal position are the same in the present matter, we see no reason why the appellants should not be given the same relief.*
9. *In our view, allowing the present criminal proceedings to continue would serve no meaningful purpose, particularly when the dispute between the parties has already been resolved through a full and final settlement. The settlement between the parties having taken place after the alleged commission of the offence, and there being no continuing public interest we see no justification for allowing the matter to proceed further.”*

34. In the present case also, the dispute between the parties has been settled through One Time Settlement (OTS) and subsequent thereto, the loan account in the name of the firm



has been closed on 21.04.2023 and property papers have been handed over to the mortgager. Therefore, in my opinion, no useful purpose would be served in allowing to continue the prosecution against the petitioner in view of the fact that the dispute around the loan has been settled between the parties. Moreover, from reading of the F.I.R. no offence, as alleged, is made out against the petitioner being loan sanctioning authority.

**35.** For the foregoing reasons, I am of the view that the present application deserves to be allowed and accordingly, the same is allowed. Consequently, the impugned order taking cognizance dated 18.03.2019 passed by the learned Additional Chief Judicial Magistrate, Patna City in Agamkuan P.S. Case No.99 of 2017 as well as the consequential proceedings arising out of Agamkuan P.S. Case No.99 of 2017 are hereby quashed.

**(Sandeep Kumar, J)**

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	03.04.2025
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