

Present:  
Mr. Justice Soumendra Sarker  
and  
Mr. Justice Md. Ruhul Quddus

Criminal Misc. Case No. 577 of 1997

Md. Entaj Uddin Akanda  
... Petitioner  
-Versus-  
Md. Younus Ali Pramanik and another  
... Opposite Parties

No one appears for the petitioner

Mr. Shams-ud-Doha, A.A.G.  
õ for the State-Opposite Party

Judgment on 25.3.2012

*Md. Ruhul Quddus, J:*

This Rule at the instance of the sole accused was issued on an application under section 561A of the Code of Criminal Procedure for quashment of the proceedings in Case No.122 C of 2006 (arising out of Case No.39 P of 1996) under sections 406 and 420 of the Penal Code that was pending before the Magistrate of first class, Ga anchal, Bogra.

Complainant Md. Younus Ali Pramanik, an Assistant Head Master of a School (herein opposite party No.1) filed a petition of complaint against the petitioner before the Magistrate of first class, Ga anchal, Bogra on 5.2.1996 alleging, *inter alia*, that the accused-petitioner was a rice-trader and his nephew-in-law. He (accused) requested him to give loan of Taka 28,000/= (twenty-eight thousand) only for one month by executing a bond. Being convinced the complainant gave him loan of the said amount sitting in the house of Advocate Abul Kalam Azad at village Aminpur on the date and time of occurrence i.e 30.12.1995 at

about 9 a.m in presence of three other witnesses. The petitioner also executed a bond to that effect on a non judicial stamp paper worth Taka 50/= . Thereafter, the complainant approached the petitioner on 31.1.1996 for payment of the loan, when he verbally assured him to pay it within 4.2.1996. But on that date he flatly denied the payment in presence of the witnesses.

The Magistrate examined the complainant and passed an order of judicial inquiry to be held by the Chairman, Alangi Union Parisad. The Chairman after conducting the inquiry submitted a report with findings of prima-facie truth in the allegations. The Magistrate then took cognizance of offence and issued process against the petitioner by order dated 19.6.1996. The petitioner obtained bail, and thereafter moved in this Court with the present application and obtained the Rule with an order of stay.

This matter has appeared in the cause list with name of the Advocate for the petitioner. It is taken up for hearing, but no one appears. In view of its long pendency for more than fifteen years, we take it up for disposal and allow Mr. Shams-ud-Doha, Assistant Attorney General to make his submissions.

Mr. Shams-ud-Doha, learned Assistant Attorney General appearing for the State-Opposite Party submits that there are clear ingredients of offence under sections 406 and 420 of the Penal Code against the petitioner. The Magistrate examined the complainant and passed an order of judicial inquiry. Thereafter, on receipt of the inquiry report with findings of prima facie truth in the allegations, took cognizance of offence against the petitioner and issued process against



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him. There is nothing illegal or any abuse of the process of Court and as such the Rule is liable to be discharged.

We have gone through the record including the petition of complaint and order sheets, and considered the submissions of learned Assistant Attorney General. In view of clear allegations of taking loan and subsequent denial of payment, it does not appear that the allegations do not constitute any offence against the petitioner. Moreover, charge has not yet been framed in the present case. The trial Court is competent enough to see whether the petition of complainant, judicial inquiry report and other materials are satisfactory to proceed against the accused. We do not find any illegality or any abuse of the process of Court in taking cognizance against the petitioner.

In the result, the Rule is discharged. The order of stay passed at the time of issuance of Rule is vacated.

Communicate a copy of the judgment.

Soumendra Sarder, J:

I agree.