**The Magistrate must be careful while entertaining complaints where the allegations are against the persons who are discharging their official duties and have no personal interest in the same: High Court of J&K and Ladakh**

Once it is the case of the respondent that he has liquidated the loan amount under the one time settlement then the learned Magistrate should ask the respondent to place on record the receipt with regard to the payment made by him to the bank as held by the Hon’ble **High Court of J&K and Ladakh** through a learned bench of **Justice Rajnesh Oswal** in the case of **Ankush Gupta Vs Joginder Paul Singh [CRMC No. 329/2017 IA No. 1/2017].**

A petition was filed by the petitioner under **section 561-A Cr.P.C. (now 482 Cr. P.C.)** for quashing the criminal complaint, titled, Joginder Paul Singh vs. Ankush Gupta for commission of offences under **sections 323, 504, 506 RPC** pending before the Court of **Sub Judge (JMIC), Nowshera** (hereinafter to be referred as the trial court) as also the order dated 17.05.2016 passed by the trial court by virtue of which process has been issued against the petitioner.

It was contended in the petition that the petitioner was serving as a Branch Manager, Grameen Bank, Nowshera and brother of the respondent had taken loan of Rs. 6.75 lac for purchase of a Tempo Traveler vehicle on 30.05.2013. The respondent stood as a guarantor to the said loan. The brother of the respondent did not liquidate the said loan as a consequence of which, the said loan account was declared as N.P.A. It was further stated that the respondent in order to pressurize the Bank officials to settle the loan amount by waiving of the balance outstanding devised a novel method and in this behalf, he filed a totally false and frivolous complaint against the petitioner before the trial court and learned trial court after recording the statements of respondent/complainant and his wife, issued the process against the petitioner vide order dated 17.05.2016.

Mr. Navyug Sethi, learned counsel for the petitioner submitted that the present criminal proceedings initiated against the petitioner are nothing but abuse of process of law and the sole motive was to harass the petitioner so as to force him to issue NOC for the loan account of the brother of the respondent. On the other hand, Mr. Raghubir Singh, learned counsel for the respondent submitted that all the essentials of offences for which the process has been issued by the learned trial court are present in the complaint filed by the respondent and as such, the same cannot be quashed.

The Hon’ble Court after hearing the both sides stated that *“Once it was the case of the respondent that he had liquidated the loan amount under the one time settlement then the learned Magistrate should have asked the respondent to place on record the receipt with regard to the payment made by him to the bank. It needs to be noted that the Bank officials are performing their official duties and they have to act in accordance the rules and regulations prescribed by the Bank. The petitioner in the instant case could not have issued the NOC in absence of liquidation of the loan. Had the learned Magistrate directed the respondent to produce the receipt of deposit of amount or the documents with regard to the one time settlement scheme, it would have demonstrated the genuineness of the story projected by the respondent. The Magistrate must be careful while entertaining such complaints where the allegations are leveled against the personsregarding the commission of offences, who are discharging their official duties and have no personal interest in the same.”*

**Judgment Reviewed by – Aryan Bajaj**