

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7361 of 2014

Arising Out of PS.Case No. -1386 Year- 2011 Thana -ROHTAS COMPLAINT CASE District-
SASARAM (ROHTAS)

1. B.K. Mishra @ Brajendra Kumar Mishra, son of Vidya Prasad Mishra, resident of 33, Surya Apartment, Fraser Road, P.S. Gandhi Maidan, District- Patna, at present working as Manager in the Amricon Agrovvet Pvt. Ltd., Patna

.... Petitioner/s

Versus

1. The State of Bihar

2. Madan Prasad Gupta, son of Ram Bachan Sah, R/O Village Thana More, Haluwai, Mohalla Nokha, Ward No. 22, P.S. Nokha, District- Rohtas

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Naresh Dikshit, Advocate

For the Opposite Party/s : Mr. J. P. Singh, Advocate
APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

3/ 29-08-2014

The Petitioner seeks quashing of the order of cognizance dated 26.02.2013 passed in Complaint Case No.1386 of 2011 by the Chief Judicial Magistrate, Rohtas at Sasaram.

The case of the Complainant is that he entered into business transaction with Amricon Agrovvet Pvt. Ltd. on the invitation of Accused No.3 and he was supplied poultry feeds. Later on, the transaction stopped and when he demanded his security cheque it was not given to him and instead the Accused demanded a sum of ₹1,71,884/- as dues. He then went to the Petitioner and showed him the documents and the copies of the transaction showing no dues. Despite it the Accused are

demanding refund of ₹2,96,884/- for which he was also being threatened.

Counsel for the Petitioner submits that even accepting the complaint, there is no averment with regard to the Petitioner and, in fact, the present complaint has been filed only with a view to screen himself from the liability of a complaint instituted by the Petitioner at Patna for dishonour of the cheque issued by the Complainant which has also been referred to by him in the Complaint petition.

On the other hand, counsel for the Opposite Party No.2 submits that evidently, the cheque which was kept as security by the Company has been manipulated by the accused persons and, therefore, they should be put on trial.

In the background facts, it appears that the present Complaint has been filed more in the nature of creating defence by the Complainant and such an opportunity would be available to him at the trial of the case filed by the Company which is going on. Moreover, from the narrative of the Complaint petition I find that apart from a bad business transaction, no ingredient of any criminal offence is present.

Hence, entire proceeding against all the accused persons including the order of cognizance dated 26.02.2013

passed in Complaint Case No.1386 of 2011 by the Chief Judicial
Magistrate, Rohtas at Sasaram, is hereby set aside.

The application stands allowed.

(Anjana Prakash, J)

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