

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2178 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Krishna Nand Singh S/O Late Kartik Singh Resident Of Road No. 23, Plot No. 176, Krishna Nagar, P.S. Budha Colony, District Patna.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Nipendra Kumar S/O Sri Achutanand Sinha Resident Of Village Injora Police Station Mehandia, District Araria At Present C/O Ragho Prasad Singh, Road No. 1D, Rajendra Nagar, Police Station Kadamkuan, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma
Mr. Rajesh Kumar
For the Opposite Party No. 2 : Mr. Gyanendra Kumar Singh
For the State : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 31-07-2017

This application under Section 482 of the Code of Criminal Procedure has been filed to quash the order dated 20.11.2008 passed by the learned Judicial Magistrate, Patna in Complaint Case No. 100 C of 2008 whereunder the Magistrate finding prima facie case for the offence under Sections 420, 120-B of the Indian Penal Code and Section 138 of the N.I. Act has summoned the petitioner.

2. Heard both sides and perused the records.

3. It has been submitted that the cheques were handed over to the complainant as security by the company of the



petitioner. The father of the complainant was appointed as Director in the company and after his removal, he prepared false and concocted document and got this case filed to put the pressure upon the petitioner by using the blank signed cheques, which were handed over to one Amit Kumar Choudhary as security. They also committed theft and took away certain receipts, which were later transformed as receipts. The said receipts were not brought on record before the trial court. There is absolutely no material or ingredient constituting offence under Sections 420, 120-B of the Indian Penal Code and 138 of the N.I. Act. The learned Magistrate has passed the impugned order in mechanical manner without applying judicial mind and so, the order is fit to be quashed.

4. The learned counsel for the Opposite Party No. 2 as well as the learned A.P.P. for the State opposed the submissions.

5. On perusal of complaint petition and documents on record, I find that the petitioner had issued a cheque for an amount of Rs. 25 lacs on 09.08.2007. The cheque was presented in Bank, but it was not honoured. The Bank reported that on account of instruction to stop payment, the cheque was returned back. The complainant gave legal notice on 28.11.2007 to the petitioner to which he neither gave reply nor paid the amount. The learned Magistrate has rightly taken cognizance against the petitioner. The



act of the petitioner was purely in his personal capacity, who issued cheque and subsequently, stopped the payment. This shows that he intentionally with the purpose of cheating had issued the cheque.

6. In view of the fact, I do not find any merit in this application. This application is, accordingly, dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
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