

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.15874 of 2014**

Arising Out of PS. Case No.-2113 Year-2013 Thana- PATNA COMPLAINT CASE District-  
Patna

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Rajiv Ranjan Kumar Son Of Late Ram Chandra Singh Resident Of Flat No. 401, Pushpa Mension Apartment, Viveka Nand Marg Opposite A.N. College, Boring Road, P.S.- Sri Krishnapuri, District And Town- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rajeev Kumar Son Of Sri Bharat Prasad Proprietor Of Shree Mahalakshmi Enterprises, First Floor, Sumati Place, P.S- Sri Krishnapuri, District & Town- Patna

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Birendra Sharma  
For the Opposite Party/s : Mr. RAM CHANDRA SAHNI (APP)

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**  
**ORAL JUDGMENT**

**Date : 22-09-2017**

Heard learned counsels for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 25.09.2013, passed by Sri Ashutosh Khetan, Judicial Magistrate, 1<sup>st</sup> Class, Patna in Complaint Case No. 2113 (c) of 2013, whereby cognizance against the petitioner for the offence under section 406 of the Indian Penal Code and section 138 of the Negotiable Instruments Act has been taken.

The contention of the petitioners is that no offense against the petitioner is disclosed and the present prosecution



has been instituted with *mala fide* intention for the purpose of harassment. No occurrence as alleged ever took place. As a matter of fact, petitioner and co-accused Vishal Kumar Mishra were partners in AVR Green Homes (P) Ltd. Petitioner had given blank cheque to him in connection with business purposes. However, when some dispute crept up between petitioner and him, the said Vishal Kumar Mishra in collusion with complainant has lodged the present false case. Learned counsel in support of his prayer for quashing the order taking cognizance has placed reliance on the judgments reported in **2000 (4) PLJR 252, 2005(1) Cr. L.J. 610, 2010 (1) Cr. L.J. 723** and **2010 (3) Cr. L.J. 2769**.

Learned counsel appearing for the State and the complainant submit that materials have come against this petitioner to suggest his complicity in the alleged crime. The order taking cognizance cannot be faulted in law.

Considering the facts and circumstances of the case and the materials available on the record, this Court does not find any substance in the submissions advanced by the learned counsel for the petitioner. From the Articles of Association (Annexure-2) it does not appear that there was any requirement of the petitioner to give blank cheque. Petitioner did not rebut



the statements made in the counter affidavit and supplementary counter affidavit filed by the opposite party no. 2 way back in the year 2014. The Court below is to see as to whether in the given facts and circumstances, *prima facie* case is made out or not.

In view of the above, I do not find any error in the order taking cognizance. Accordingly, the prayer for quashing the same is, hereby, refused.

The application, thus, stands dismissed.

**(Arvind Srivastava, J)**

mcv/-

AFR/NAFR	NAFR
CAV DATE	19.07.2017
Uploading Date	22.09.2017
Transmission Date	22.09.2017

