

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28838 of 2009

Arising Out of Complaint Case No.602(C) Year- 2006 District- PATNA

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1. Abhay Kumar
 2. Rajeev Kumar

Both sons of late Shivendra Kumar Thakur, r/o Mohalla Rajiv Nagar, Road No. 6,
P.S. Digha, Distt. Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shri Prem Prakash Narayan, son of Prabhu Narayan, r/o Gorla Toli, Station
Road, P.S. Kotwali, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shashank Shekhar Jha, Adv.
Mr. T.N.Jha, Adv.

For the State : Mr. Arun Kr. Singh-I, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-08-2015

Heard learned counsel for the Petitioner and the learned
counsel for the State.

The Petitioners seek quashing of the order dated 4.8.2006
by which the Judicial Magistrate, 1st Class, Patna, in Complaint Case
No. 602 (C) of 2006 has taken cognizance in the matter.

The case of the Complainant is that he was in business
dealings with the accused persons in course of which he gave a certain
amount of loan to the Petitioners. However, when the Petitioners
returned the money by cheque it was dishonoured on account of
insuffient of funds and, hence, the present Complaint.

The submission of the Petitioners is that the fact of the matter that the Petitioners were in business dealing in course of which the Petitioner issued a Cheque to the Complainant which was to be encashed after supply of articles. However, without supply of articles, the Cheque was deposited and, hence, dishonoured.

On the last occasion, notices had been issued to the Opposite Party No. 2 but none appears on her behalf.

Having gone through the facts of the case, the application is allowed and the Proceeding including the order of cognizance dated 4.8.2006 passed by the Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 602 (C) of 2006 is hereby set aside.

However, this order shall not prejudice any Party in any manner.

(Anjana Prakash, J)

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