

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31219 of 2009

Arising Out of Complaint Case No. 1351, Year 2008, District- MUZAFFARPUR

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Pramod Gulabchand Dargad, son of late Gulabchand Dargad, Shakharpeth, Shop No. 28, Solapur, Firm Ankit Textiles, 157, Shakharpeth, Shop No. 28, Solapur-413005

.... Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Modi, son of late Dewaki Nandan Modi, Mohalla Sutapatti, P.S. Town Distt. Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Atul Chandra, Adv.

For the Opposite Party/s : Mr.
Mr. Dr.Alok Kumar Alok
Mr. Man Mohan Prasad

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 17-08-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order of cognizance dated 20.12.2008 passed by the Judicial Magistrate, 1st Class, Muzaffarpur, in Complaint Case No. 1351 of 2008.

The case of the Complainant is that on certain date when he went to the Bank to up-to date his passbook, he found Rs.250/- had been withdrawn on 23.5.2008 and had lost a Cheque. On enquiry, he came to now that the present Petitioner had presented the Cheque by filling up it with an amount of Rs.5,00,000/- and had withdrawn the amount.

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

It has been submitted on behalf of the Petitioner that during investigation, it was found that the Complainant was an agent of the Petitioner who was owner of Ankit Textiles and he had defaulted in payment of Rs.15,00,000/- to the Petitioner and in order to repay the same, he gave a cheque. When the Cheque was presented it was disbursed for which reason he was given a legal notice by the Petitioner. Evidently, in such circumstances, the present Complaint appears to have been filed in order to create a defence.

Having regard to the facts and circumstances of the case, I would be inclined to accept the submission so raised on behalf of the Petitioner.

Hence, the application is allowed and the Proceeding including the order of cognizance dated 20.12.2008 passed by the Judicial Magistrate, 1st Class, Muzaffarpur, in Complaint Case No. 1351 of 2008 is hereby set aside.

(Anjana Prakash, J)

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