

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36909 of 2012

Arising Out of PS.Case No. -684 Year- 2011 Thana -null District- PATNA

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1. Maryam Khatoon, D/O Md. Ahmad, W/O Julphikar Ali, Resident Of Quarter No. 769/800, Govt. Quarter, Village + P.O. + P.S. Shastri Nagar, District Patna.
 2. Vinay Kumar, S/O Ram Prasad Mandal, Peon, Bihar Vidhan Sabha, P.S. Sachivalay, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bihar State Minorities Financial Corporation Ltd. At Haj Bhawan, 34, Harding Road, P.S. Sachiwalay, Patna-800001 through its authorized Staff Namely Md. Tanveer S/O Late Md. Sayeed Legal Assistant of the Corporation.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Fahimuddin, Adv.

For the State : Smt. Pushpa Sinha, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 27-03-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order dated 28.3.2012 passed by the Sub Divisional Judicial Magistrate, Patna, in Complaint Case No. 684(c) of 2011 by which the learned Magistrate held that a prima facie case is made out under Section 406, 420 of the Indian Penal Code as well as under Section 138 of Negotiable Instrument Act and directed to issue summons to the Petitioners.

The case of the Complainant is that it is a Financial Corporation which provides financial help to minorities by giving term loan, irrigation loan for which the Petitioner No. 1 had been giving 85,000/- and Petitioner No. 2 became a guarantor of said loan to Petitioner No. 1. As per agreement between the Parties, the

Petitioners were to reimburse with interest in 20 quarterly installments for which he has deposited ten signed cheques of SBI with the Complainant. When the Complainant deposited the Cheques on 24.12.2010 amounting to Rs.92,803/- it was dishonoured.

A supplementary affidavit has been filed stating therein that the entire amount has been paid and, hence, the prosecution now has become meaningless.

On the last occasion, notices had been sent to the Opposite Party No. 2 which was received by his office bearer but none appears on his behalf.

Having considered the facts of the case, I would be inclined to agree with the submissions of the Petitioner.

Hence, the application is allowed and the entire proceeding including the order dated 28.3.2012 passed by the Sub Divisional Judicial Magistrate, Patna, in Complaint Case No. 684(c) of 2011 is hereby set aside.

However, the quashment of present proceeding shall have no bearing on any other claim.

(Anjana Prakash, J)

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