

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49138 of 2012

Arising Out of Complaint Case No.3150(C) Year- 2004 Thana -null District- -

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Sunil Kumar, S/O Basudeo Prasad, Resident Of Nagia, P.S.- Malsalami, Town-
Patna City, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Shailendra Kumar Thakur S/O Late Madan Mohan Thakur Resident Of
Vachaspati Nagar, P.S.- Sultanganj, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. A.D. Verma, Adv.
For the State : Mr. Anil Kumar, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 30-06-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks quashing of the order dated 27.8.2012 passed by the Adhoc Additional District Sessions Judge, Patna, in Criminal Revision No. 858 of 2011 by which he has affirmed the order dated 17.10.2011 passed by the Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 3150© of 2004, Trial No. 1218 of 2011 by which she has refused to discharge the Petitioner.

The case of the Complainant is that the father of the Petitioner i.e. co-accused Basudeo Prasad had taken loan of certain amount of money from him and when it was returned through Cheques, the same were dishnoured. A legal notice upon the said Basudeo Prasad was served but he did not comply and hence the present Complaint was instituted.

It has been stated that it is evident from the Complaint petition itself that no part of transaction was made between the Petitioner and the Complainant. Notices had also been sent only to Basudeo Prasad since he was the person who had issued the Cheque. In view of such, evidently, the Prosecution of the Petitioner does not appear to be warranted.

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

Having considered the factual aspect of the Complaint petition, I would be inclined to agree with the submission so raised on behalf of the Petitioner.

Hence, the application is allowed and the Proceeding including the order dated 27.8.2012 passed by the Adhoc Additional District Sessions Judge, Patna, in Cr. Revision No. 858 of 2011 as also the order dated 17.10.2011 passed by the Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 3150(c) of 2004, Trial No. 1218 of 2011 so far as the Petitioner is concerned, are hereby set aside.

(Anjana Prakash, J)

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