

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 50592 of 2012

Arising out of P.S. Case No. -1921 Year- 2007 Thana –
Complaint Case District- Patna

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Binay Kumar Jha S/o Late Chandra Shekhar Jha Resident of
Village and Post Office- Sumbha Dearhi, P.S- Singhia, District-
Samastipur at Present Residing at Q.No. 716/A, Railway Colony,
Road No. 7, Ijrat Nagar, Barailley-243122 (U.P).

.... Petitioner/s

Versus

1. The State of Bihar.
2. Birendra Kumar Sinha S/o Late Gajendra Narayan Singh
Resident of Road No. 12/D, Rejendra Nagar, P.S- Kadam Kuan,
Town and District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. R.P. Sinha, Adv.

For the Opposite Party/s : Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-09-2015

The Petitioner seeks quashing of the order of
cognizance dated 17.09.2007 passed by the Judicial
Magistrate, 1st Class, Patna in Complaint Case No. 1921(C) of
2007.

The case of the Complainant is that the father of the
Petitioner had borrowed some money during his lifetime but
he did not return the same. After his death, the Petitioner is
said to have issued two cheques for Rs. 5.50 Lakhs which on
presentation were dishonoured. A legal notice was sent to the
Petitioner but he did not reply and, hence, the present
Complaint.

It has been submitted on behalf of the Petitioner

that the legal notice was sent outside the prescribed time as also the case was instituted after the expiry of the time prescribed under Section 138 NI Act.

Considering such technicalities, the Court below is directed to pass a fresh order after considering the feasibility of condoning the delay if such an application is filed.

The application stands disposed off with the aforesaid observations.

(Anjana Prakash, J.)

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