

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 49524 of 2012

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

Abhay Kumar S/O Sri Vadunandan Rai R/O Mohalla- Silwan House, Birla Mandir Road, P.O- Bankipur, P.S- Pirbahore, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar

2. Pragati Kumar S/O Satrugan Pandey R/O Mohalla- Ander Quila Hazipur, P.S- Hazipur, District- Vaishali (Hazipur.)

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashutosh Singh, Adv.

For the State : Mr. C. Jawahar, State

For the Opposite Party/s : Mr. N Choubey, Adv.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 24-11-2015

The petitioner seeks quashing of the order of cognizance dated 17.10.2008 passed in Complaint Case No. 1744 of 2008, Tr. No. 2997 of 2008 by the Judicial Magistrate, Vaishali, Hazipur.

The case of the complainant is that while purchasing some article she had lost his bag containing cheque book of Punjab National Bank, Driving license and Rs. 140 cash. He then filed a 'Sanha' and informed the concerned bank for cancellation of the lost cheque upon which the Bank destroyed/cancelled the cheques on 15.02.2008 on payment of Rs. 500/-. On 07.06.2008 when the complainant went for up-to-date his account he received an information that two cheques amounting Rs. 1 lakh each had been presented before the S.B.I, Patna. On enquiry he learnt that the petitioner had done such an act.

It has been submitted on behalf of the petitioner that fact of the matter is that the complainant had borrowed some money from the petitioner but had failed to return the same on time. When the demands were made, two cheques were issued in the name of the petitioner which were dishonored. The petitioner then noticed and filed Complaint Case no. 1894C of 2008 under Section 138 N.I. Act. No doubt in the meanwhile, the complainant had already taken action has been stated in the complaint petition to create defence.

The complainant submits the since the petitioner has no reason to lend him money without any written document, his plea may not be accepted.

Having considered the rival submissions, I would be inclined to hold that the present complaint appears to be a counter blast. Hence the application is allowed and the order of cognizance dated 17.10.2008 passed in Complaint Case No. 1744 of 2008, Tr. No. 2997 of 2008 by the Judicial Magistrate, Vaishali, Hazipur, is hereby set aside.

(Anjana Prakash, J)

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