

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.51616 of 2015**

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1. Rakesh Kumar S/o Shri Shyam Narayan Sinha Partner of M/S - Khyati Motors  
2. Shashi Prabha W/o - Shri Rakesh Kumar Partner of M/S - Khyati Motors,  
Both R/o - 21, A.N. Path, North S.K. Puri, P.S. - S.K. Puri, District - Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar.  
2. Dr. Anil Kumar S/o Late Harihar Prasad R/o : - Mohalla - Nitibagh  
Colony, Ava Niwas, P.S. - Rupaspur, District - Patna.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Awadhesh Kumar

For the Opposite Party/s : Mr. T.N.Thakur(App)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR**  
**JHA**

**ORAL ORDER**

2      21-12-2015

Heard both sides.

The petitioners apprehend arrest in a case registered for the offences punishable under sections 420 and 504 of the Indian Penal Code and section 138 of the Negotiable Instrument Act.

The complainant made allegation that he gave a sum of rupees seven lacs to the petitioners and in lieu thereof the petitioners issued a cheque in the name of the complainant but when the cheque was presented the same could not be honoured due to paucity of fund in the account of the petitioners.

It is submitted that the petitioners filed Rupaspur P.S. case no. 76 of 2015 against Ashutosh Kumar, son of the

complainant making allegation that Ashutosh did not give account of his business while he was working as a Manager in the business concern of the petitioners and also stole away four cheques.

It is submitted that one of the cheques has been used by the father of Ashutosh Kumar and for that the present case has been lodged. Ashutosh Kumar also lodged another case on the basis of stolen cheques from the business premises of the petitioners.

It is submitted that the case pending against the petitioners arose out of civil dispute between the land lord and the petitioners as the petitioners are also builder.

On the other hand learned counsel for the complainant submits that the complainant gave rupees seven lacs through cheque but this fact is not corroborated from the statements of the Bank account of the petitioners and it appears that the complainant transferred rupees seven lacs to the accounts of the petitioners on 30.07.2013 through R.T.G.S.

It is submitted that the petitioners are ready to return the amount of the complainant subject to the result of the case. They are ready to deposit the amount in court and the court below may fix the same in the name of the complainant so that if the complainant gets an order in his favour, he may not be

deprived of the interest thereof, subject to the condition that the complainant shall not withdraw the aforesaid amount during the pendency of the complaint petition.

Considering the facts aforesaid, the petitioners above named, in the event of arrest or surrender in the court below within four weeks from the date of receipt/production of a copy of this order, shall be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Patna in connection with Complaint Case No. 1462( c) of 2015 subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure, 1973 and also subject to the condition that the petitioners shall deposit rupees seven lacs in the court below and the court below in turn shall fix the same in the name of the complainant with a rider that the complainant shall not withdraw that amount during the pendency of the complaint case.

**(Prabhat Kumar Jha, J)**

Amin/-

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