

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18676 of 2010

Arising Out of PS.Case No. 3169 Year- 2009 Thana -null District- SARAN

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1. Prasun Kumar Medhatia, Sub-Broker M/S Oswal Securities Ltd. At Anand Market In Front Of Civil Court Gate,Kacheri Road, Chapra- 841301.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Rakesh Kumar Singh S/O Param Hans Singh R/O Moh.- Dahiyawan Tola, P.S.- Chapra Town, Dist.-Saran, Chapra.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None

For the Opposite Party/s : Mr. Kumar Priya Ranjan, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-11-2015

No one appears on behalf of the Petitioner.

The Petitioner seeks quashing of the order of cognizance dated 9.4.2010 passed by the Judicial Magistrate, 1st class, Chapra in Criminal case No.3169 of 2009 (Trial No.1958 of 2010).

The case of the Complainant is that while he was residing at Chapra, the Petitioner was sub-broker and was managing the business at Branch office, Chapra of M/s Motilal Oswal limited. The Complainant used to purchase his shares regularly through him. However at one point in time the Petitioner did not furnish him contract notice nor the details of the shares which were in his demat account and thus defalcated his money.



From the facts stated in the petition, I find that the Petitioner was a sub broker of M/s Motilal Oswal securities limited which was a member of the National Stock exchange of India and Bombay stock exchange whereas the Complainant was an individual who had entered into a member client agreement which was also registered. The Complainant was allotted a client code but some amount fell due on account of which he was sent notices. In discharge of the liability he issued seven cheques in favour of the Company but the same were dishonoured on account of which he was noticed. The matter was then referred for arbitration and ex-parte award was prepared by the Arbitrator in favour of the M/s Motilal Oswal securities limited. It further appears that since it was ex-parte the Complainant has gone in appeal as against the same.

The Counsel for the Complainant submits that since he was put to loss by the Petitioner who was a sub broker, he should be put on trial.

Having considered that the dispute is purely financial in nature and there are other forums for redressal of such grievance and no ingredient of criminal offence is made out even if the facts of the Complaint is accepted, the application is allowed and the proceeding including the order of cognizance dated 9.4.2010 passed by the Judicial Magistrate, 1st class, Chapra in Criminal case No.3169 of

2009 (Trial No.1958 of 2010) without prejudice to either party is hereby set aside without prejudice.

(Anjana Prakash, J)

Narendra/-

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