

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29419 of 2012

Arising Out of Complaint .Case No. -893 (C)Year- 2009 District- PATNA

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1. Mahindra @ Mahindra Financial Services Ltd., A Non-Banking Financial Company incorporated Under Indian Companies Act, 1956 through its Manager (Legal) having one of its Branch Office at House No.-147, Patliputra Colony, P.S.- Patliputra, District- Patna
 2. Sanjay Kumar S/O Suresh Kumar Roy, Custom Manager, Mahindra & Mahindra Financial Services Ltd., having its Branch Office at House No.-147, Patliputra Colony, P.S.- Patliputra, District- Patna

.... Petitioners

Versus

1. The State of Bihar
2. Mukesh Kumar S/O Shri Maheshwar Rai, Resident of Village- Kala Diyara, P.S.- Bakhtiarpur, District- Patna

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-04-2015

The petitioners seek quashing of the order of cognizance dated 15.07.2009 passed by the Judicial Magistrate 1st Class, Patna in Complaint Case No. 893(C) of 2009 under Section 420 of the Indian Penal Code.

The case of the complainant is that he had taken loan for financing his old tractor for which he paid installments. However, he found out that even though he had paid a certain amount of money, an amount of Rs. 2,00,000/- was not credited in his account.

It has been submitted on behalf of the petitioners that

there is no doubt that the complainant was a borrower but he had defaulted in paying the loan amount as per terms of the agreement.. An outstanding of Rs. 3,00,000/- was shown in his account but in order to save himself from coercive action to be taken by the Financer in accordance with law, the present complaint was filed to pre-empt the same.

On the other hand, the counsel for the complaint submits that since the petitioners had not credited the amount in question they should be prosecuted.

In the facts given above, in my opinion, the trial would be an abuse of the process of Court. Hence, the proceeding including the order of cognizance dated 15.07.2009 passed by the Judicial Magistrate 1st Class, Patna in Complaint Case No. 893(C) of 2009 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J.)

Vats/-

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