

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49955 of 2012

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Surendra Prasad Chaurasia @ Surendra Chaurasia, son of Late Motilal Chaurasia, resident of Mohalla-Khilanganj, Sasaram, P.S.-Sasaram(Nagar), Distt.-Rohtas.

.... Petitioner/s

Versus

1. State of Bihar
2. Sampat Kumar Singh son of Shri Nidhi Singh, resident of village-Kalyanpur, P.S.- Karagahar, Distt.-Rohtas.

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE AMARESH KUMAR LAL
ORAL ORDER

4 21-05-2015

Heard learned counsel for the petitioner and the State.

The petitioner has filed this application for quashing the order dated 18.9.2012 passed by the learned C.J.M., Rohtas at Sasaram, in Complaint Case no. 127 of 2012 by which prima facie case has been found against the petitioner and cognizance has been taken for the offence punishable under Section 420 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act.

Learned counsel for the petitioner submits that it was a friendly loan and as such, no case under Section 420 of the Indian Penal Code is made out and since the cheques were not returned even after the payment of amount of loan, no case under Section 138 of the Negotiable Instrument Act is also made out.

Learned counsel for the State submits that the complainant has been examined on solemn affirmation and in support of this contention he has examined three witnesses who have also supported the prosecution case.

After hearing learned counsel for both the parties, it appears from the impugned order that the complainant has been

examined and he has supported the prosecution case. Three witnesses have also supported the prosecution case and after considering the materials on record the learned Magistrate has taken cognizance against the petitioner. The settled principle of law is that at the time of taking cognizance the Magistrate is required to see as to whether a prima facie case is made out or not. It is not required at that stage as to whether the evidence of the witnesses will lead to conviction of the accused or not.

Considering the discussions made above, I do not find any ground to interfere with the impugned order. This petition stands disposed of.

However, the petitioner is at liberty to raise his grievance before the court below at an appropriate stage.

(Amaresh Kumar Lal, J)

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