

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41960 of 2012

Arising Out of PS.Case No. -199 Year- 2011 Thana -null District- NALANDA (BIHARSHARIFF)

Ranjan Kumar son of Mahendra Prasad, resident of Mohalla Kidbypuri P. and T. colony, Quarter No.165, Post and P.S. Kidbyipuri, District Patna

.... Petitioner/s

Versus

1. State of Bihar
2. Anil Kumar son of Sri Ganauri Prasad, resident of village Amanama, P.S. Islampur, District Nalanda, present residing at Railway Station par Bagicha, behind B.R.C. Bhawan, P.S. Rajgir, District Nalanda

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jayram Sharma, Advocate

For the Opposite Party/s : Mr. R.B. Roy Raman, APP

For Opposite Party No.2 : Mr. Parasnath, Advocate

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-06-2015

The Petitioner seeks quashing of the order of cognizance dated 20.8.2011 passed by the Judicial Magistrate, 1st class, Bihar Sharif (Nalanda) in Complaint case No.199C of 2011.

The case of the Complainant is that he and the Petitioner were in business relationship, in course of which the Petitioner asked him for a loan of Rs.1,50,000/-. He gave the same to the Petitioner after which when he asked for return, on which the Petitioner gave him a cheque of Rs.1,50,000/- but when he went to encash the same, he found that it was dishonoured since the Petitioner had stopped payment.

The Counsel for the Petitioner submits that as is apparent



from the Complaint Petition there was business relationship between the parties. The Petitioner was the manufacturer whereas the Complainant was a retailer. The Petitioner attempted to set up the retail business of the Opposite Party No.2 by giving him a cheque of Rs.1,50,000/- but he came to know of his credentials his own family so he did not proceed further and asked the Bank to stop payment of the cheque,

There is not a chit of paper to show that the Petitioner had ever been given a loan of Rs.1,50,000/- which is not small amount. Moreover in the facts of the case at best a case of financial accounting is made out and not one of criminal offence.

On the other hand, the Counsel for the Complainant submits that since the Petitioner had issued a cheque and thereafter stopped payment, he should be put on trial.

On going through the facts of the Complaint Petition, I am unable to discern any criminal offence in the facts stated therein. Hence, in my opinion the present prosecution is a gross abuse of the process of the Court and deserves to be set aside.

Thus, the application is allowed and the order of cognizance dated 20.8.2011 passed by the Judicial Magistrate, 1st class, Bihar Sharif (Nalanda) in Complaint case No.199C of 2011 is hereby set aside.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

Narendra/-

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