

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.7 of 2013

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Prafulla Kumar Tiwary @ Prabhul Kumar Tiwary, resident of Mohalla-9B
Rajiv Nagar Nala Par, Patna, Police Station- Patliputra, District- Patna.
..... Petitioner.

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The State of West Bengal through Chief Secretary, Government of West Bengal.
3. The Chief Metropolitan Magistrate, Kolkata (Calcutta).
4. Tata Capital Limited, A company corporated under the Companies Act, 1956 having its office at One Forbed, Dr. V.B. Gandhi Marh, Fort, Mumba400001, having its Regional office at 109, Aadharshila Complex, 3rd Floor South Gandhi Maidan, Patna, through its representative Sandip Kumar Ghosh.
5. Sandip Kumar Ghosh, Son of Subal Ghosh, Appejay House, Block 'C' 5th Floor, Park Street, Kolkata.
6. Regional Manager, Tata Capital Limited, 109, Aadharshila Complex, 3rd Floor, South Gandhi Maidan, Police Station- Gandhi Maidan, District- Patna.
7. Shankar Equipments Ltd., 5th Floor, Aadharshila Complex, South Gandhi Maidan, Patna-1.

..... Respondents.

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Appearance :

For the Petitioner : Mr. Gopal Prasad Roy, Advocate.
For the Respondent
No. 4 to 6 : Mr. Dayanand Singh, Advocate.
For Respondent No. 7 : Mr. Jitendra Prasad Singh, Advocate.
For the State : Mr. Brajesh Kumar, A.C. to AAG-11.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

8 18-05-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

This is a petition for issuance of writ in the nature of
certiorari/ mandamus or any other writ, order, direction for
quashing the Complaint Case No. C/17454 of 2010 pending in the
court of Chief Metropolitan Magistrate, Kolkata, by which

cognizance has been taken for offence under Section 138 of Negotiable Instrument Act.

The fact in narrow compass is that petitioner had taken loan from the complainant by which he had issued cheque in favour of the complainant which has been dishonoured. Thereafter a case was filed before Chief Metropolitan Magistrate, Calcutta and learned court had taken cognizance for offence under Section 138 of Negotiable Instrument Act.

Learned counsel for the petitioner however challenged the order taking cognizance and stated that Chief Metropolitan Magistrate, Calcutta, had no jurisdiction to take cognizance against the petitioner and has relied upon decision reported in 2007 (Vol-VII) SCC 640.

However, this case has been instituted under lodging of F.I.R.

Learned counsel for the State as well as learned counsel for respondent no. 4 to 6 submits that petitioner is veteran for committing similar offence and in similar type of case against the petitioner where cheque issued by the same petitioner in Bihar which was bounced in Bikraul at Bombay in which a complaint case has been filed against the petitioner. The petitioner had prayed relief before a Single bench of this Court for quashing the

proceeding by filing Cr.W.J.C. No. 24 of 2011 which has been rejected by order dated 16. 04. 2013.

Having regard to the fact the similar petition of the petitioner having been dismissed by this Court in Cr.W.J.C No. 24 of 2011 and this petition, the fact raised by the petitioner is same, so in view of order of Single Bench of this Court in Cr.W.JC. No. 24 of 2011, this petition stands dismissed.

m.p.

(Gopal Prasad, J)

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