

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44521 of 2009

Arising Out of Complaint Case No.1787 Year- 2006 District- PURNIA

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1. Sunil Chhaila Bihari @ Chhaila Bihari S/O Sri Krishnadeo Prasad Presently
Residing At Triveni Apartment, Boring Canal Road, Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Indradeo Prasad S/O Sukhdeo Pareram Purnea City, P.S. Sadar ,Distt-Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kr. Singh-2, Adv.

For the State : Mr. J. Upadhyay, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 31-08-2015

Heard learned counsel for the Petitioner and the State.

The Petitioners seek quashing of the order of cognizance
dated 21.5.2007 passed by the Judicial Magistrate, 1st Class, Purnea,
in Complaint case No. 1787 of 2006.

The case of the Complainant is that he had approached
the Petitioner for singing in a Programme for which he had given him
an advance of Rs.21,000/- but later on he refused to take rest of the
amount as also did not perform at the function.

It has been submitted on behalf of the Petitioner that it is
indeed true that the Complainant had paid the amount of Rs.21,000/-
on an agreement as per which Complainant was required to fulfill
certain conditions and if he failed to do so, the contract was to be

cancelled. When the Complainant failed to abide by the terms of the agreement, the contract was automatically cancelled and the money stood forfeited.

On the other hand, the counsel for the Complainant submits that he had taken no objection certificate from the local Administration, and, hence, it cannot be said that he had not fulfilled his part of the terms of agreement and hence there was no justification for cancelling the Programme.

Considering that even if trial proceeds on these facts, it would be a nullity, the application is allowed and the Proceeding including the order of cognizance dated 21.5.2007 passed by the Judicial Magistrate, 1st Class, Purnea, in Complaint case No. 1787 of 2006, is hereby set aside.

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(Anjana Prakash, J)

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