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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9983 of 2014

Arising Out of PS.Case No. -1772 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-GOPALGANJ

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Ajmeri Khatoon, Wife of Abdul Jabbar, Resident Of Village - Jagmalwa, P.S. - Thawe, District – Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. Pankaj Kumar, Son of Bhograsan Prasad, Resident Of Rajendra Nagar, Ward No. 22, P.S. + District - Gopalganj.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Amrit Abhijat, Advocate
For the Opposite Party/s : Mr. Murlidhar (APP)

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 30-07-2015 The 2nd respondent herein filed a complaint under Sections 420, 406, 467, 468, 471 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act, against the petitioner and her husband. He stated that though the petitioner and her husband agreed to sell 2 kathas of land and received consideration of Rs.22,00,000/-, they did not execute the sale deed. It is further alleged that at one stage, two cheques were issued for refund of the consideration, but they were dishonoured. On the basis of the complaint, Complaint Case No.1772 of 2013 was registered in the Court of Chief Judicial Magistrate, Gopalganj.

Apprehending their arrest, the petitioner and her husband filed ABP No.1773 of 2013 in the Court of Sessions

Judge, Gopalganj. The same was dismissed on 22.01.2014. Hence, this application under Section 438 Cr. P.C.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

Prima facie, even from the averments made in the complaint, it is evident that the dispute is of civil nature. Assuming that the cheques were dishonoured, it is a case under Section 138 of the Negotiable Instrument Act. Time and again, the Courts took the view that in a complaint under Section 138 of the Negotiable Instrument Act, other offences punishable under the provisions of the Indian Penal Code cannot be clubbed.

Therefore, the petition is allowed. In the event of arrest or surrender, the petitioner shall be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of Sri R. K. Dwivedy, learned Judicial Magistrate, 1st Class, Gopalganj in connection with Complaint Case No.1772 of 2013 (Tr. No.3948 of 2013), subject to the conditions as laid down under Section 438(2) Cr. P.C.

(L. Narasimha Reddy, CJ)

Sunil/-

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