

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 16518 of 2012

Arising out of P.S. Case No. -942 Year- 2007 Thana –
Complaint Case District- PATNA

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Ashok Kumar S/o Late Basant Lal Resident of Mohalla - Bari Nagla,
P.S. - Malsalami, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rajendra Kumar, S/o Sardar Harvansh Singh, R/o Mohalla-
Maccharhatta, Sri Ram Market, P.S.-Khajekalan, District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Adv.
Mr. Vijay Anand, Adv.

For the Opposite Party/s: Mr. APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 23-11-2015

The Petitioner seeks quashing of the order of cognizance dated 29.11.2010 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 942 of 2007.

The case of the Complainant is that he took a loan of Rs. 30,000/- for which reason the Petitioner took his signature on a paper and also took cheque of Rs. 46,000/- as security. However, even though the Complainant returned the money which had been leant to him the Petitioner refused to return the cheque and instead forcibly took four signed cheques from him.

The submission of the Petitioner is that even though the four cheques were post-dated 13.12.2007, 15.01.2008, 15.02.2008 and 13.03.2008 the Complaint has been lodged

much before the date of maturity on 06.11.2007. In fact, the said cheques were taken in another transaction between the parties and when they were dishonoured on 12.12.2008 the Petitioner instituted Khajekala P.S. Case No. 143 of 2007 i.e. after expiry of the period of notice. In the meanwhile to preempt any action by the Petitioner the present Complaint was filed with trumped up charges after receipt of notice.

On the last occasion, notices had been issued to the Opposite Party No. 2 but none appears on his behalf.

Having considered the background facts of the prosecution I am inclined to hold that the present Complaint appears to have been filed for ulterior reasons.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 29.11.2010 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 942 of 2007 is, hereby, set aside without prejudice of the right of the parties.

The Application stands allowed.

(Anjana Prakash, J.)

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