

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 10292 of 2013

Arising Out of PS.Case No. -1928 Year- 2008 Thana -BEGUSARAI COMPLAINT CSAE District-

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Umesh Kumar Gupta S/O Late Bishwanath Sah Resident of Mohalla- Miyanchak,
Chatti Road, Police Station- Town, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar
2. Prayag Choudhary S/O Late Shiv Shankar Choudhary Resident Of Village-
Lakho, Police Station- Muffasil, District- Begusarai Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 15-09-2015

The petitioner seeks quashing of the order of cognizance dated 02.07.2009 passed by the Judicial Magistrate, 1st Class, Begusarai in Complaint Case No. 1928 C of 2008.

The case of the complainant is that on 01.06.2008, the petitioner had given a cheque of Rs. 3,20,000/- which he encashed on 04.08.2008. On the same day the petitioner came and asked him to give him loan and taking his plea to be genuine, he gave Rs. 1,50,000/-. However, instead of returning the loan, later on, the petitioner along with Branch Manager came and forcibly took his signature on two blank papers and also assaulted him.

It has been submitted on behalf of the petitioner that fact of the matter is that petitioner had issued a cheque of Rs. 20,000/- to the complainant which the complainant manipulated and made it 3,20,000/- and presented it to the Bank. By mistake the Bank credited the said amount in the account of the complainant. But later on

realizing the mistake, the Branch Manager went to the house of the complainant and requested him to return the same. He returned a sum of Rs. 150,000/- but not rest and instead he filed the present complaint. In this background the petitioner submits that the complainant is trying to confuse the issue. It does not appear a reason that a person who had issued a cheque in favour of other which amount was encashed would once again come and borrow the money from him without any documentary evidence. All these oral allegations by the complainant are only to screen himself from the vagaries of the prosecution which was likely to be initiated by the Bank officials.

On the other hand complainant submits that since the petitioner did not return a sum of Rs. 1,50,000/- he should be put on trial.

Considering the background facts as also the improbable allegations, I would be inclined to hold that the presence complaint is gross abuse of the process of the Court and deserves to be set aside. Hence the application is allowed and the order of cognizance dated 02.07.2009 passed by the Judicial Magistrate, 1st Class, Begusarai in Complaint Case No. 1928 C of 2008 is hereby set aside.

(Anjana Prakash, J)

Prakash/-

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