

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49497 of 2012

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Paras Nath Sahay S/O Late Gobind Sah Resident Of Village- Gangati, P.S-
Dawat, District- Rohtas, Presently Resident At Jagdeopath, Murlichak, Near
Hero Honda Show Room, P.O- Vetnari College, P.S- Air Port, District-
Patna.

.... Petitioner/s

Versus

1. State of Bihar
2. Shambhu Choudhary son of late Ratan Choudhary

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Saroj Kumar

For the Opposite Party/s : Mr. Nawal Kishore Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

3 13-03-2015 The petitioner seeks quashing of the order dated
13.09.2012 passed by learned Judicial Magistrate, 1st Class-cum-
Additional Magistrate, Bikramganj, Rohtas whereby he has taken
cognizance of the offence punishable under Section 406 of the
Indian Penal Code and Section 138 of the Negotiable Instrument
Act.

Learned counsel appearing on behalf of the petitioner has
drawn my attention to Annexure-2 to this application under
Section 482 of the Criminal Procedure Code in order to contend
that the amount with respect to which the cheque was issued in
favour of the complainant was in fact paid in cash to the
complainant. He submits that the complainant failed to return the

cheque which was issued by the petitioner after payment of the amount in cash to the complainant.

These submissions may be good defence in course of trial but cannot be considered in a proceeding under Section 482 of the Code of Criminal Procedure in quashing of the cognizance itself.

This is not in dispute that a cheque was issued by the petitioner which stood dishonoured on presentation in the bank. This allegation constitutes offence under Section 138 of the Negotiable Instrument Act.

I do not feel inclined to interfere with the impugned order. This application is accordingly dismissed.

Learned counsel for the petitioner informs this Court that the petitioner is being harassed as the complainant is lingering the matter before the Trial Court as despite lapse of two years from the date when cognizance was taken, there has been no progress in the case before the Court below. This Court observes that the Court below shall ensure that the disposal of the case is expedited and unnecessary adjournments are not granted.

(Chakradhari Sharan Singh, J.)

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