

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10844 of 2013

Arising Out of PS.Case No. -122 Year- 2005 Thana -BHAGALPUR KOTWALI District- Bhagalpur

1. Devendra Prasad Pandey S/O Late Hardeo Prasad Pandey Resident Of Anandgarh Colony, Police Station- Tilkamanjhi, District- Bhagalpur
2. Neeraj Kumar Pandey @ Niraj Pandey S/O Sri Devendra Prasad Pandey Resident Of Anandgarh Colony, Police Station- Tilkamanjhi, District- Bhagalpur
.... Petitioners

Versus

1. The State Of Bihar
2. Suresh Prasad Yadav S/O Sri Surya Bali Yadav Resident Of Koyla Ghat, Adampur, Police Station- Adampur, District- Bhagalpur
.... Opposite Parties

Appearance :

For the Petitioners : Mr. Deepak Kumar Sinha, Advocate

For the Opposite Parties : Mr. Ram Bachan Singh(App)

CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 21-05-2015 Heard the learned counsel for the petitioners and the State.

This is a petition for quashing the order, dated 27.09.2012, by which the petition for discharge has been rejected and it has been ordered to place the case on 21.12.2012 for framing of the charge.

The grievance of the petitioners is that the petitioners approached the complainant-informant for providing loan with assurance to return the same within a stipulated time and even gave post dated cheques of Rs.50,000/- as well as Rs.64,000/- against the loan. However, the loan was not repaid and the cheques given bounced and when the complainant-informant approached and enquired about the bouncing of the cheques, it is alleged that

the complainant-informant was threatened to kill.

The first information report lodged and after submission of the charge sheet cognizance taken and after taking cognizance the petition for discharge was filed.

The learned counsel for the petitioners submits that the cognizance has been taken under Section 138 of the Negotiation Instrument Act and petitioner no. 1 is the father of petitioner no. 2 and loan was taken and cheques were issued by petitioner no. 2, hence, it is submitted that offence under Section 138 of the Negotiation Instrument Act does not make out.

However, it is not proper, at this stage, to interfere with the order of discharge when the case has been fixed for framing of the charge. The petitioners may raise the issue at the stage of framing of the charge.

With these observations and directions, this petition is **disposed off**.

(Gopal Prasad, J)

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