

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9902 of 2014

Arising Out of PS.Case No. -2970 Year- 2007 Thana -SARAN COMPLAINT CASE District-
SARAN

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Jagarnath Sahu @ Jagnath Sahu Son of Late Ratilal Sah, Resident of Village- Maur
Bajar, P.S.- Parsa, District- Saran, (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar
2. Dilip Kumar, Son of Sri Vakil Prasad Yadav, Resident of Village- Sadhpur,
P.S.- Garkha, District- Saran

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Kumar Singh, Advocate
For the State	:	Mr. A.P.P.
For O.P. No.2	:	None

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 19-11-2016

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

Present application has been filed for quashing of the
order dated 26.11.2013 passed by the Judicial Magistrate 1st Class,
Chapra in Complaint Case No. 2970 of 2007 whereby processes were
directed to be issued after cognizance being taken for the offences
punishable under Section 406 of the Indian Penal Code and Section
138 of the Negotiable Instrument Act.

The prosecution case is that the petitioner took Rs.
50,000/- with promise to return the same within six months.
Subsequently, three cheques of Rs. 15,000/- were issued and when

those cheques were presented by the complainant, the same returned with endorsement “insufficient fund”. Thereafter legal notice was sent on 27.7.2007 to the petitioner (which however the petitioner disputes) but the said amount of Rs. 50,000/- was not returned.

Matter had been sent to the Mediation and Conciliation Centre of the Patna High Court in which both the parties appeared, but as per the report of the Mediator, dispute could not be resolved.

It has been submitted by the learned counsel for the petitioner that there is an out of Court settlement in which entire amount had been paid and cheque issued by the petitioner had been returned.

This is a strange argument. Had the amount been paid by the petitioner, there should have been receipt thereof, but no receipt has been filed by the petitioner.

From perusal of materials available on record, the allegations made in the complaint petition do attract the ingredients of a cognizable offence. This application is, accordingly, dismissed.

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	
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