

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13316 of 2016

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Jai Narayan Singh, proprietor of M/S Kumar Sales Agency, at Zero Mile Police Check Post, Pahari Patna, 800026 (Bihar) permanent address Rai Bagh, P.S.- Didarganj, P.O.- Kachi Chai Dargh Patna City, Patna, Bihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Nitya Nand Trivedi, S/o- Mahendra Prasad Trivedi, R/v- Sherpur, P.S.- Sadar, Distt.- Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Kumar Bhatnagar
For the Opposite Party/s : Mr. Gulnar Begum(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 13-07-2016

The present application has been filed for modification of the order dated 14.12.2015 passed in Cr. Misc. No. 37689 of 2015 for extending the period of return of the undertaken amount of Rs. 8,00,000/- and the period of surrender.

The petitioner preferred Cr. Misc. No. 37689 of 2015 with a prayer for anticipatory bail in a complaint case wherein processes were directed to be issued after cognizance being taken for the offences punishable under Sections 406, 420/34 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act.

The complainant being tractor dealer of Mahendra Auto Service was approached by the accused persons for demonstration and sale of newly launched tractor



to the interested farmers. Two tractors were given to the complainant on payment of Rs. 8,00,000/-. The complainant organized the demonstration and sale programme of the tractors but the farmers were not interested to buy the newly launched tractor. Thereafter, in December, 2010 both the accused persons came and directed the complainant to return back the tractors and when the complainant demanded Rs. 8,00,000/- which was taken from the complainant, petitioner Jai Narayan Singh issued two cheques of Rs. 4,00,000/- each in favour of the complainant which got bounced leading to filing of the present complaint.

During hearing of the anticipatory bail application, on the joint prayer of the parties, the matter was referred to the Mediation & Conciliation Centre of the State Legal Services Authority vide order dated 21.09.2015 passed in Cr. Misc. No. 37689 of 2015. The report of the Mediator at Flag- 'A' reflects that before the Mediator the petitioner agreed to return Rs. 8,00,000/- in monthly installment of Rs. 50,000/- from February, 2016 but the proposal of the petitioner was not acceptable to the complainant. Thereafter, before this Court, counsel for the petitioner submitted that the petitioner is ready to return Rs. 8,00,000/- in eight equal installments in the next eight months. The offer of the petitioner was accepted by the complainant. In the circumstance, the petitioner was granted provisional anticipatory bail for nine months vide order dated

14.12.2015 passed in Cr. Misc. No. 37689 of 2015. The provisional bail of the petitioner was to be confirmed by learned Court below on return of Rs. 8,00,000/- to the complainant in next eight months.

The present modification application has been filed for extending the period of return of Rs. 8,00,000/- and the period of surrender since petitioner is unable to manage the finance.

It is submitted by learned counsel for the complainant that complainant has no objection if the reasonable period is extended provided the petitioner returns the said amount within the said period as the money was given to the petitioner in 2010.

The counsel for the petitioner submits that petitioner will return Rs. 8,00,000/- by 31st of December, 2016.

Considering the joint stand of the parties, the order dated 14.12.2015 passed in Cr. Misc. No. 37689 of 2015 is modified to the extent in view of the undertakings of the petitioner to return the entire amount by 31st of December, 2016 and accordingly the period of surrender is also extended by four weeks.

It is made clear that petitioner will deposit bank draft of 30 percent of Rs. 8,00,000/- at the time of surrender and before execution of the bail bond, rest 30 percent of Rs. 8,00,000/- within two months of the execution of

the bail bond and rest 40 percent of Rs. 8,00,000/- by 15th of December, 2016 so that the draft can be encashed before 31st of December, 2016.

It is also made clear that in no circumstance any modification application will be entertained in future.

Accordingly the modification application is disposed of in connection with Complaint Case No. 1159 of 2011, pending in the Court of learned Judicial Magistrate, 1st Class, Muzaffarpur.

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(Dinesh Kumar Singh, J)

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