

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48694 of 2015

Arising Out of PS.Case No. -1405 Year- 2011 Thana -GAYA COMPLAINT CASE District- GAYA

Dharmendra Kumar, Son of Late Amrit Lal Sao Resident of Mohalla- Manpur
Bazar, Police Station- Buniyadganj, Town and District- Gaya.

.... Petitioner

Versus

1. The State of Bihar.
2. Manoj Kumar Son of Sri Narain Prasad, resident of Mohalla- Manpur, Suri Tola,
P.S.- Mufassil, Post Office Buniyadganj, District- Gaya.

.... Opposite Parties

Appearance :

For the Petitioner/s : Mr. Upendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Dashrath Mehta, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 25-04-2016

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

2. By way of the present application preferred under
Section 482 of the Code of Criminal Procedure, the petitioner seeks
quashing of the order dated 22.11.2011 passed in connection with
Complaint Case No. C-1405 of 2011 by which the learned Chief
Judicial Magistrate, Gaya has taken cognizance of the offence
punishable under Sections 406, 420 of the Indian Penal Code and
Section 138 of the Negotiable Instruments Act, 1881.



3. According to the complainant, the petitioner had issued a cheque amounting to Rs. 27,98,425/- in the name of the petitioner and on being presented before the Bank, the cheque got dishonoured due to insufficiency of fund. A notice in this regard was issued by the complainant to the petitioner which was duly received by him and in his reply the petitioner tried to shift his burden by concocting and fabricating a false story.

4. The allegation made in the complaint has been supported by the complainant in his solemn affirmation and the witnesses examined on behalf of the complainant in course of inquiry conducted under Section 202 of the Code of Criminal Procedure have also corroborated the prosecution case as narrated in the complaint.

5. Taking into consideration the materials available on record, the learned Chief Judicial Magistrate, Gaya took cognizance of the offence vide impugned order dated 22.11.2011.

6. The said order dated 22.11.2011 has been challenged by the petitioner after about four years by filing the present application under Section 482 of the Code of Criminal Procedure on 9th October, 2015.

7. Learned counsel for the petitioner has contended that the cheque presented before the bank did not bear the signature

of the petitioner. As a matter of fact, the cheque was stolen away by the complainant and by misusing the same a false claim has been raised.

8. No plausible explanation has been given by the learned counsel for the petitioner for filing the present application after undue delay of about four years since the date on which the order impugned has been passed. Even otherwise, I do not find any ground to interfere with the impugned order.

9. In my view, the ground on which the quashing application is being pressed is in the nature of defence, which has to be considered at the stage of trial. No other illegality in the impugned order passed by the court below has been pointed out by the learned counsel for the petitioner.

10. Accordingly, the application, being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.04.2016
Transmission Date	27.04.2016