

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8346 of 2016

Arising Out of PS.Case No. -1867 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Kunj Bihari Singh Son of Prasadi Pd. Singh resident of 64-C, Anandpuri,
Boring Canal Road, P.S. - Srikrishnapuri, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Manoj Kumar Singh, Son of Shiv Chandra Singh resident of 110-Indira
Nagar, West Boring Canal Road P.O. - G.P.O., P.S. - Patliputra, District -
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar No. 1
For the Opposite Party/s Mr. R.B.Roy Raman(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

5 16.03.2016 Supplementary affidavit is filed on behalf of the petitioner.

Heard learned counsel for the petitioner, learned Addl.
Public Prosecutor for the State as well as learned counsel appearing
for the complainant.

Petitioner seeks bail in complaint case in which cognizance
for the offence punishable under section 406 of the Indian Penal Code
and 138 of the N.I. Act has been taken.

It is alleged that the petitioner received near about Rs 18/-
lakhs from the complainant to transfer a house which stands in the
name of the petitioner's wife and subsequently, petitioner's wife
executed an agreement for sale but did not execute absolute sale deed
and when the complainant demanded his money, petitioner issued
some cheques which became bounced when produced before the

concerned bank resulting in filing the present complaint case.



Learned counsel for the petitioner submits that, as a matter of fact, petitioner and the complainant as well as one Shambhu Kumar Singh had entered into a partnership and partnership deed was prepared and in that course, petitioner had given several cheques to the complainant but subsequently with a mala fide intention complainant filed the present case. It is further submitted by him that the petitioner was granted privilege of anticipatory bail by a coordinate bench of this court subject to condition on depositing of the amount in question but unfortunately, petitioner was not able to deposit the aforesaid amount and accordingly, he surrendered before trial court on 24.11.2015 and since then he is languishing in jail custody.

It is further contended by him that even if the prosecution story assumed to be true, then also, petitioner was only witness and it was the petitioner's wife who had executed an agreement for sale in favour of the complainant. It is further contended by him that complainant had no locus standi to file this complaint petition because even if the complainant's story assumed to be true, then also, it is father of the complainant who was the sufferer.

Learned counsel appearing for the complainant vehemently opposes the prayer submitting that the petitioner had admitted before a coordinate bench of this court that he had issued cheques in favour of the complainant with an intent to return money of the complainant but, again, petitioner has come before this court with a new story of partnership deed. It is further submitted by him that the complainant

had never executed any partnership deed and, as a matter of fact, the aforesaid document is a forged and fabricated document.

Considering the aforesaid facts and circumstances as well as submissions of the parties, in my view, the above stated controversy can only be decided in course of trial and, therefore, petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Patna in Complaint Case no. 1867 C/2013.

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(Hemant Kumar Srivastava,J)

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