

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19783 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Md. Faishuddin @ Mohammad Faish S/O Md. Imtuazuddin, R/O Vill.- Shoman Internationa, 98/99, Oshiwara Link Plaza Near Oshiwara, P.S.- Jageshwari (W), Mumbai

.... Petitioner/s

Versus

1. The State Of Bihar
2. Manoj Kumar Mishra S/O Indrakant Mishra, Proprietor M/S Maa Sherawali Movies 103 Gagan Apartment, Exhibition Road, P.S.- Gandhi Maidan, Patna, Distt.- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jagdish Pd., Advocate
Mr. N.K. Mishra, Advocate
For the Opposite Party/s : Mr. R.B. Roy Raman, APP
For Opposite Party No.2 : Mr. J.N. Tripathi, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 25-01-2016

The Petitioner seeks quashing of the order of cognizance dated 9.3.2009 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2396C of 2007.

The case of the Complainant is that the Petitioner and the Complainant were in the business of Movies, in course of which the Petitioner came and requested the Complainant to invest a huge amount for a film, which he did. However, the film was not made nor did the Petitioner return the money and finally when he did so by way of a cheque, on presentation the same was dishonoured.

On going through the impugned order, I find that the Court

below at the stage of cognizance held that the basic ingredient of Section 138 N.I. Act was not made out and hence no cognizance was taken in its respect.

Also on perusal of the Complaint Petition, I am unable to convince myself that as to what criminal offence would be made out in the facts stated therein and hence the application is allowed and the proceeding including the order of cognizance dated 9.3.2009 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2396C of 2007 is hereby set aside without prejudice to the rights of the parties.

(Anjana Prakash, J)

Narendra/-

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