

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23018 of 2010

Arising Out of Complaint Case No.1290 Year- 2006 District- PATNA

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1. Gautam Day @ Goutam Dey, Director M/S Griha Vasta Griha Nirman Swalambi Sahyog Samiti, Resident Of Moh HEC, Sector-2, Qtr No. 645/B.P.S Jagaranthpur, Distt.-Ranchi (Jharkhand)
 2. Sanjay Jayswal @ Sanjay Jayswal, S/O Binod Kr. Jayswal, R/O Mohalla C.D. 647, H.E.C. Colony, Distt.-Ranch (Jharkhand)
 3. Rajesh Mishra, S/O Late Shiv Narayan Mishra, R/O Mohalla 17, Dinkar Nagar, Hatia Station Road, Hatia, Ranchi-3, Distt.-Ranchi (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
2. Ram Sideheshwar Azad, son of late Mehilal Singh, resident of village Gurupati, P.S. Masaurhi, Distt. Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gaurav Govind, Adv.

For the State : Mr. T.M. Thakur, A.P.P.

For the Opposite Party No. 2 : Mr. Pramod Kumar Singh, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-01-2016

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 3.11.2007 passed by the Judicial Magistrate, 1st Class, Gaya, in Complaint Case No. 1290 of 2006.

In short, the allegations against the Petitioners are that they had issued a Cheque which was presented to the Bank on 20.4.2006 for its clearance but was dishonoured. On 7.8.2006, a legal notice was sent but, when no reply was received, the present Complaint was filed on 18.9.2006.

It has been submitted on behalf of the Petitioners that in terms of Section 138(b) N.I. Act, legal notice has to be sent within thirty days of the receipt of information from the Bank which was not done. In fact, the legal notice was sent almost four months after the Cheque was dishonoured and this Complaint was filed beyond the period specified under Section 138(c) of Negotiable Instruments Act.

Having considered the technicalities of procedure, the application is allowed and the proceeding including the order of cognizance dated 3.11.2007 passed by the Judicial Magistrate, 1st Class, Gaya, in Complaint Case No. 1290 of 2006, is hereby, set aside without prejudice to the right of the Parties.

(Anjana Prakash, J)

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