

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**SLA No.30 of 2016**

=====

Anil Kumar aged about 45 years son of Santosh Gope R/O Mohalla-Bari  
Patandevi, P.O.- Gardanibagh, District, Patna

.... .... Appellant/s

Versus

1. State of Bihar
2. Ranjeet Kumar, Son of Shyam Babu Yadav R/O Kurji, P.S. Digha O.O-  
Sadakat Ashram, District-Patna

.... .... Respondent/s

=====

**Appearance :**

For the Appellant/s : Mr. Rajeev Kumar

For the Respondent/s : Mr. Shashi Bala Verma

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI**  
**SHARAN SINGH**  
**ORAL ORDER**

4      28-11-2016

The present petition for grant of special leave to appeal has been preferred for assailing the judgment and order, dated 18.03.2016, passed by learned Judicial Magistrate, First Class, Patna City, in Protest Complaint Case No. 1024 of 2005, giving rise to Criminal Trial No. 1047 of 2016, whereby learned Judicial Magistrate First Class, Patna City has recorded acquittal of the sole respondent of the charge of offences punishable under Section 138 of the Negotiable Instrument Act, 1881.

2. From paragraph 13 of the impugned judgment and order, it can be easily noticed that at the trial, no document was adduced in support of service of statutory legal notice or memo of return by the Bank to prove that the cheques stood returned because of insufficiency of fund.

Further, learned trial Court noticed certain contradictions in the evidence of two prosecution witnesses examined as C.W. 1 and C.W.2. It seems that the prosecution witnesses deposed that the legal notice was given orally.

3. Learned counsel appearing on behalf of the appellant has not been able to satisfy this Court that what has been recorded in paragraph 13 of the impugned judgment and order is incorrect in any respect.

4. In that background, learned trial Court has rightly recorded acquittal of Respondent No.2 of the charge under Section 138 of the Negotiable Instruments Act. The reasoning assigned by the Court below is valid and cannot be said to be unsustainable.

5. This petition for leave to appeal has no merit and, accordingly, leave to appeal against the said order, dated 18<sup>th</sup> March, 2016 passed by learned Judicial Magistrate First Class, Patna City, in Protest Complaint Case No. 1024 of 2006 (Criminal Trial No. 1047 of 2016) is, hereby, refused.

6. This petition is, accordingly, dismissed.

**(Chakradhari Sharan Singh, J)**

ArunKumar/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|