

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17975 of 2016

Arising Out of PS.Case No. -1065 Year- 2015 Thana -WEST CHAMPARAN COMPLAINT
District- WESTCHAMPARAN(BETTIAH)

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1. Kamlesh Yadav son of Mukti Yadav
2. Mukti Yadav son of Bishwanath Yadav Both are resident of Village -
Rampur Sakraul, Post Office - Murli, Police Station - Shikarpur, District -
West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rambalak Singh son of Late Bindeshwari Singh Resident of village -
Bela gola, Hari Nagar, Police Station - Ram Nagar, District - West
Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Advocate

For the Opposite Party/s : Mr. Sucheta Yadav (App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 06-05-2016 Heard learned counsel for the petitioners, learned
counsel for the informant and the learned A.P.P. for the State.

Petitioners apprehend their arrest in connection with
Trial No. 1071 of 2015 arising out of complaint case No. 1065-C
of 2015 registered for offences punishable under Sections 384,
406, 420 of the Indian Penal Code and under Section 138 of the
Negotiable Instrument Act.

The prosecution case as lodged on the basis of a
complaint by the complainant/Opposite Party No.2 on 09.11.2015
alleging therein that earlier good relations with the petitioners



prevailed, they demanded Rs. 5,50,000/- on credit for business with a promise to return the same within three months. Complainant gave them such amount but after lapse of stipulated period when the petitioners did not return the money of complainant, demanded money but the petitioners took time and lastly petitioner Kamlesh Yadav issued a cheque of Rs. 5,50,000/- but the said cheque was not encashed due to insufficient amount in his account and the same was returned. Thereafter, complainant contracted with them and demanded his money, whereupon petitioners became annoyed and refused to give money and also extended threat to kill him. Then complainant sent a notice to the petitioners but in spite of that petitioners did not pay the money to the complainant.

It has been submitted by the learned counsel for the petitioners that they are innocent and both parties has good relations with each other as is evident from the complaint case itself, who had taken liquor shop together and some money transaction took between them.

It has further been submitted that the petitioners' side has also lodged Complaint Case No. 230-C of 2016, which was later on registered as Bettiah Town P.S.Case No. 122 of 2016 against the complainant, whereby allegations as against the

complainant has also been made under Sections 420 and 406 of the Indian Penal Code.

It has further been submitted by the learned counsel for the petitioners that cognizance has been taken against these petitioners under Section 120 and 406 of the I.P.C. and not Under Section 138 of the Negotiable Instrument Act. Furthermore, learned counsel for the petitioner submits that they have clean antecedent and there is no chance of tampering with the evidence and being respectable businessmen there is no chance of fleeing away.

However, learned counsel for the informant submits that the petitioners issued a cheque of Rs. 5,50,000/- drawn on Axis Bank Ltd., Bettiah Branch, which has bounced. It has further been submitted that the said money has not yet been returned. However, learned counsel for the petitioner submits that the matter relates to Civil dispute and no case of intrusion under Section 420 is made out.

Learned A.P.P. for the State submits that the petitioners are named in the First Information Report, hence, opposes the prayer for bail.

Considering the facts and circumstances, since the matter relates to Civil dispute, let the petitioners, above named, in

the event of their arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand only) each with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Bagaha , West Champaran in connection with Trial No. 1071 of 2015 arising out of Complaint Case No. 1065-C of 2015, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J)

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