

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19624 of 2014

Arising Out of PS.Case No. -468 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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Neeraj Kumar Shrivastav Son of Nirmal Kumar Shrivastava Resident of Flat no.
203, Lalita Nikunj Apartment B. Area Mithapur, Police Station- Jakkanpur,
District- Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Rita Singh Wife of Sri Prem Kumar Singh

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Yogesh Chndra Verma, Sr. Adv.
Mr. Upendra Prasad No. 2
For the Opposite Party No. 2: Mr. SAnjiv Sharan
For the Opposite Party/s : Mr. Ansarul Haque, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 04-07-2017

This application under Section 482 of the Code of
Criminal Procedure has been filed for quashing the order dated
01.05.2012 passed by the learned Judicial Magistrate, 1st Class,
Patna in Complaint Case No. 468 (C) of 2012.

2. The facts in brief is that the Opposite Party No. 2
(complainant) filed a complaint case on the file of Chief Judicial
Magistrate, Patna alleging inter alia that the petitioner took an
amount of Rs. 5,000,00/- after giving assurance that the same
amount would be invested in one of the best scheme of Sahara



India Ltd. fetching maximum interest. The petitioner in spite of repeated demand did not give the investment certificate nor returned the amount and on persuasion, he issued a cheque on 30.11.2011 for Rs. 5,000,00/-. The complainant deposited the same in Bank where her cheque was dishonoured with the remark that payment has been stopped by the drawer. The complainant gave a legal notice on 07.01.2012 and thereafter, filed the complaint case on 17.02.2012.

3. The learned counsel for the petitioner submits that this case is not maintainable in view of the fact that the present complaint case has been filed without exhausting the legal procedure. This complaint case is premature as without giving legal notice, the complainant has filed a case. He further submits that offence under Section 420 of the Indian Penal Code is bad in law as the complaint case has been filed for the offence under Section 138 of the N.I. Act and so, the criminal prosecution is fit to be quashed.

4. The learned counsel for the complainant as well as the learned APP for the State opposed the submissions.

5. On perusal of the complaint petition, I find that the



complainant after adopting all the legal procedure has filed the complaint case. The court below has rightly taken cognizance for the offence. I do not find any illegality in order taking cognizance. Accordingly, this Criminal Miscellaneous Application is dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
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