

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33682 of 2013

Arising Out of PS.Case No. -2775 Year- 2012 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

=====

1. Dinesh Kumar Kushwaha S/O Ram Chandra Singh Resident Of Village-
Daudnagar, P.S- Vaishali, Distt- Vaishali, Managing Director Souransh, Resource
India Pvt. Ltd., Presently Resident Of Rampur Road Near Deoshree Appartment,
C/O Advocate Lakhmi Prasad, Singh, P.S- Bahadurpur, Distt- Patan.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Shiv Prasad Singh, s/o Late Paltan Singh, r/o village Dharman Singh Koari, P.S.
Ganga Bridge, District Vaishali.

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Smt. Anuradha Singh, Adv

For the Opposite Party/s : Mr. Shantanu Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 04-04-2017

Heard both sides.

The petitioner has filed this petition under Section
482 of the Code of Criminal Procedure to quash the order dated
04.10.2012 passed in Complaint Case No. C1-2775 of 2012, whereby
the learned Chief Judicial Magistrate found the prima facie case under
Sections 420 and 406 of the Indian Penal Code and Section 138 of the
N.I. Act, against the petitioner.

The complainant alleged in the complaint petition that
both the accused approached the complainant and requested him to
sell the lands of Khesra No. 1411 and 1412 of Khatna No. 247
situated in mauza Kuanri Dharman Singh @ Kunari Bujurg falling
under the jurisdiction of Ganga Bride P.S., Hajipur, District Vaishali,
for consideration amount of Rs. 19,10,000/-. Rs. 13,00000/- was paid
through cheque but when the cheques were presented, the same was



not honoured. The accused persons issued another cheques but all the cheques were dishonoured.

Learned chief Judicial magistrate on perusal of the complaint and statement of witnesses, found prima facie case against the accused under Sections 420 and 406 of the Indian Penal Code and Section 138 of the N.I. Act by his order dated 04.10.2012.

Learned counsel for the petitioner has assailed the order on the ground that the agreement was arrived at between the parties, which is annexed as Annexure-4, to this petition and the complainant has got the entire amount. The prima facie case under sections 420, 406A of the I.P.C and 138 of the N.I. Act was found on the basis of material collected during inquiry under Section 202 of the Cr.P.C. The agreement shows that money has already been returned but the document was not before the court at that stage and same document is not admitted by the complainant, no illegality is shown in the order impugned.

Having considered the facts aforesaid, I do not find any illegality in the order dated 04.10.2012.

It is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.04.2017
Transmission Date	18.04.2017

