

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20936 of 2013

Arising Out of PS.Case No. -3376 Year- 2005 Thana -PATNA COMPLAINT CASE District-
PATNA

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Escort Finance Limited, a Company registered under the Companies Act, 1956, having its registered office At N-6, Pratap Building Connaught Circus, New Delhi, through its authorized representative Prabhat Kumar, Son of Sri S.N. Singh having its office at N-6, Pratap Building, Connaught Circus, New Delhi

.... Petitioner

Versus

1. The State of Bihar
2. Sharad Kumar, son of Sri Ashok Kumar Gupta, R/O M-12, Lav Kush Tower, P.S. - Gandhi Maidan, District - Patna

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. S.K. Mishra, Advocate

For the O. P. No.2 : Mr. Keshri Kishore Sharan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 19-01-2017

This application has been filed under Section 482 of Cr.P.C for quashing of the order dated 01.12.2005 by which learned Judicial Magistrate-1st Class, Patna, after holding inquiry has found prima-facie case against the petitioner under Sections 403, 418 and 120B of Indian Penal Code.

Heard both the parties.

In brief, complaint case is that on 25.06.2004 complainant deposited in 17 fixed deposits in the accused company for 24 months and company had issued fixed deposit receipt in favour of complainant. Complainant deposited fully discharged fixed deposit



receipt to the accused persons and accused no.7 assured complainant that his money will be paid within a month by account payee cheque but in spite of several reminder, the company as well as their responsible person named in the complaint did not make payment.

It has been submitted that now the maturity amount of aforesaid fixed deposit receipts has been paid to the complainant on 08.10.2011. The petitioner has submitted that he has paid the amount as per payment of the maturity amount of fixed deposit in terms of the order passed by Delhi High Court vide Petition no. 162 of 2006.

The counsel for the complainant has submitted that he has no knowledge about the pendency of the case in the lower court. Therefore, he was not making any pairvi in the lower court. He has received today supplementary affidavit by the petitioner and then he knew that case is pending in the court of learned Sub-Judge-XIV, Patna vide Complaint Case No.3376/C of 2005.

In this manner, from perusal of the impugned order, this court finds that cognizance has been taken on 01.12.2005 after looking into the allegation in the complaint petition, statement of witnesses recorded and seventeen fixed deposit receipt deposited by the complainant. Therefore, this court is not inclined to quash the aforesaid order of cognizance. It is, accordingly, dismissed.

Both parties are directed to file a petition in the lower



court about full satisfaction of the dues between them within a period of three weeks from today and lower court will pass appropriate order in accordance with law after looking into the fact that matter has already been settled and fixed deposit amount has been paid by the petitioner.

(Sanjay Priya, J.)

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