

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8832 of 2017

Arising Out of PS.Case No. -1504 Year- 2015 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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Rajendra Chauahdary son of Hariday Choudhary resident of Village -
Sitanabad, P.S. - Simri Bakhtiyarpur, District - Saharsa.

.... Petitioner

Versus

1. The State of Bihar.
2. Saroj Kumar son of Ramchandra Pathak resident of Naya Tola, Line
Bazar, P.S. - K. Hat, District - Purnea.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Indu Shekhar Dwivedi, Advocate
For the Opposite Party/s : Sri Parmanand Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 14-07-2017 Heard learned counsel for the petitioner and
learned counsel for the State.

2. This application under Section 482 of the Code of
Criminal Procedure (for short Cr.P.C.) has been filed for
quashing of the order dated 03.01.2017 passed by the learned
Judicial Magistrate, 1st Class, Purnea in Complaint Case No.
1504 of 2015 whereby the bail bond of the petitioner has been
cancelled.

3. The petitioner is an accused for the offence
punishable under Section 138 of the Negotiable Instruments



Act. From perusal of the order dated 05.11.2016, it would be evident that an application under Section 317 of the Cr.P.C. was filed by the petitioner for dispensation of his personal appearance which was accepted by the court on the same day and the petitioner was directed to be present in person on 20.12.2016 for explaining the substance of accusation. It would further be evident that even on 20.12.2016, the petitioner failed to appear and an application under Section 317 of the Cr.P.C. for dispensation of his personal appearance was filed. Learned Magistrate allowed the said prayer giving him last chance to appear in person for explaining the substance for accusation on the next date, i.e. 03.01.2017. Thereafter, on 03.01.2017 also, the petitioner did not appear and an application under Section 317 of the Cr.P.C. was filed on his behalf which was rejected by the court below and the bail bond of the petitioner was cancelled.

4. It is submitted by the learned counsel for the petitioner that since the petitioner had challenged the order summoning him in the aforestated complaint, he chose not to appear before the trial court. He submitted that if he would have appeared before the court his application challenging the summoning order would have become infructuous. According



to him, absence of the petitioner on the ground of having challenged the order of cognizance was bona fide and the court below ought not to have cancelled his bail bond.

5. I see no merit in the submission made by the learned counsel for the petitioner. He has not produced any order before the court to show that there was any stay granted on the further proceedings of the case. If there was no stay of the proceedings by any court and the petitioner was fully aware of the ongoing proceedings before the learned Magistrate, there was no justification for him not to attend the court.

6. Accordingly, the application being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

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