

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43729 of 2014

Arising Out of PS.Case No. -25 Year- 2013 Thana -SAHARSA COMPLAINT CASE District-
SAHARSA

=====

Sita Ram Yadav, Son of Late Mahabir Yadav, Resident of Village- Koparia, P.S.-
Salkhua, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar

2. Rajiv Ranjan, Son of Prabhash Jaiswal, Resident of Village+P.S.- Salkhua,
District- Saharsa.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate.

For the Opposite Party/s : Mr. Ajay Kumar No. 1, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 30-10-2017

Heard learned counsel for the petitioner and learned
counsel for the State. However, none appears on behalf of the O.P.
No. 2.

2. The petitioner has filed this quashing application for
setting aside cognizance order dated 15.05.2014 passed by the Judicial
Magistrate, 1st Class, Saharsa in Complaint Case No. 25 of 2013
thereby taking cognizance of offence under Section 406 of the Indian
Penal Code and Section 138 of the Negotiable Instrument Act.

3. The allegation in the complaint, in brief, is that
petitioner purchased 100 quintals of wheat amounting to Rs.



128500.00 from the complainant and promised to pay money after two months. On expiry of the said period, the complainant went to the petitioner but instead of cash amount, he handed over him two cheques amounting Rs. 89,950/- and Rs. 38,550/- respectively in total Rs. 1,28,500/- and further orally instructed the complainant to deposit these two cheques after a month. When he deposited the said cheques after a month, both cheques got dishonoured thereafter notice was given within the stipulated period but money was not paid back, thereafter complaint was filed within time.

4. Only submission of learned counsel for the petitioner is that already cheque amount has been paid to the complainant. However, learned counsel appearing on behalf of the State submits that no compromise petition been filed by the petitioner as well as the complainant and there is also no document showing acknowledgement of receipt of the money by the complainant.

5. Having considered the rival submissions of both sides and on perusal of the record, a *prima facie* case appears to be made out against the petitioner under Section 138 of the Negotiable Instrument Act and Section 406 of the Indian Penal Code. There is no document to show that the petitioner has entered into compromise by paying cheque amount to the complainant. Learned counsel for the complainant is also not present before the Court, so there is no ground



to interfere with the cognizance order, hence this application, finding no merit, stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.11.2017
Transmission Date	06.11.2017

