

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11980 of 2014

Arising Out of P.S.Case No. -523 Year- 2013 Thana -GAYA
MUFFSIL District- GAYA

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Jai Prakash Lal S/O Late Lakhan Lal Proprietor Of Prakash Book
Depot, Nawada Resident Of Mohalla - Prajatantra Chowk Main Road
Nawada, P.S. Nawada Town, Distt. - Nawada

.... Petitioner

Versus

1. The State Of Bihar
2. Chandra Kant Mani S/O Sri Ram Sharma Resident Of Mohalla -
Sri Ram Pustak Bhandar Gorakshni Road P.S. Gaya (M), Distt. -
Gaya

.... Opposite Party

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Appearance :

For the Petitioner	: Mr. Mukesh Kumar-1, Advocate
For the Opposite Party No.2	: Mr. Manish Kumar-2, Advocate
For the State	: Mr. Humayu Ahmad Khan, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL JUDGMENT

Date: 24-07-2017

This is an application under Section 482 of the Cr.P.C. to
quash the order dated 03.12.2013 passed by Judicial Magistrate Ist
Class, Gaya in connection with Gaya (M) P.S.Case No.523 of 2013
whereunder the cognizance has been taken under Sections 406 and
420 of the IPC as well as 138 of the N.I.Act against the petitioner.

2. The Opposite Party No.2 submitted a written report to
the SHO of Muffasil P.S.alleging inter-alia that in course of business
transaction the present informant had supplied books worth



Rs.16,43,445/- on different occasions. In this regard, this petitioner paid an amount of Rs.4,20,000/- and gave two cheques, one for Rs.one lac and another of Rs.2 lac and agreed to make payment of balance amount by 30.06.2013. The informant presented both the cheques which bounced on account of insufficient fund. The petitioner has therefore cheated him and also committed breach of trust with respect to price of book which were entrusted in course of business.

3. Heard Mr. Mukesh Kumar-1, learned counsel for the petitioner, Mr. Manish Kumar-2, learned counsel for the Opposite Party No.2 and Mr. Humayu Ahmad Khan, learned APP for the State and perused the record.

4. The present case was registered on the basis of written report submitted before SHO of Muffasil P.S. The matter was investigated by police who submitted chargesheet against the petitioner for the offence under Sections 406 and 420 of the IPC and Section 138 of the N.I.Act. The informant deposited two cheques given by the petitioner in the bank which bounced on account of insufficient fund. It is alleged that the informant several times requested the petitioner to make payment of Rs.16,43,445/- but on all the occasion, the petitioner gave assurance that money will be paid. The petitioner, lastly threatened the informant and refused to make



payment. In this regard, the informant gave a legal notice on 30.07.2013 which was neither replied nor the money was given. Thereafter the informant lodged this case. The act of this petitioner giving cheque without having money in his account prima-facie shows his intention to cheat the informant. The learned Magistrate finding ingredients of cheating and committing breach of trust has rightly taken cognizance against the petitioner.

5. In view of the above facts, I do not find any illegality in the impugned order. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
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