

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41440 of 2014

Arising Out of PS.Case No. -435 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

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Ramanand Sharma Son of Late Bhagelu Singh, Resident of Village - Bhelura Ram
Pur, P.O.- Nagwa, P.S.- Janipur, District -Patna

.... Petitioner

Versus

1. The State of Bihar
2. Kamendra Kumar Son of Kamal Nayan Singh Resident of Village - Gopalpur,
P.S.- Naubatpur, District -Patna

.... Opposite Parties.

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Appearance:

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate.

For the Opposite Party/s : Mr. Yogendra Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 10-10-2017

Heard learned counsel for the petitioner and learned A.P.P.
for the State.

2. The petitioner is seeking quashing of the order dated
16.06.2014 passed in Complaint Case No. 435(C) of 2014 passed by
learned Judicial Magistrate 1st Class, Danapur by which the learned
Magistrate has taken cognizance of the offence under Section 138 of
the N.I. Act and decided to issue summons against the petitioner.

3. Learned counsel for the petitioner has challenged the
impugned order mainly on the ground that it is an *inter-se* dispute
over certain transactions between the petitioner and the complainant,
who are Mama and Bhagina. So far as the procedural issues are



concerned, learned counsel for the petitioner has not been able to point out any procedural ground in taking cognizance for the offence alleged. Learned counsel has a submission that the details regarding issuance of notice and service thereof are not available in the complaint petition and, therefore, the order taking cognizance is bad in law.

4. This Court has perused the complaint petition and the other materials including the impugned order. The complainant has stated in the complaint petition that after dishonour of the first cheque a legal notice was issued on 02.07.2013 and thereafter again the two other cheques dated 31.03.2014 and 02.04.2014 were lost which stood dishonoured on presentation. The complainant once again issued a notice dated 03.04.2014 against those dishonoured cheques dated 31.03.2014 and 02.04.2014 but on 18.04.2014 the accused refused to return the amount under the cheque and while abusing the petitioner threatened him of dire consequences if he would indulge in demanding money from the accused again.

5. Learned counsel for the petitioner at this stage submits that according to Section 142(b) of the N.I. Act, a case should have been filed within a period of 30 days from the date on which the cause of action arose, i.e. 18.04.2014; however, learned counsel is unable to satisfy this Court either from the pleading in the petition or from the



records otherwise that the complaint was not filed in time. This being the position, no ground is available to the petitioner to challenge the present case.

6. This Court would not like to go into the merit of the allegations or discuss the story as made out by the petitioner in his petition for purpose of quashing.

7. The application is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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