

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18759 of 2014

Arising Out of PS.Case No. -1587 Year- 2012 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Nagendra Rai Son of Late Gauri Shankar Rai R/o Village-Purkhas, P.S. Gopalpur,
District Gopalganj, presently resident of 41, Dabsen Road, P.S. Golabari, District
Howrah (W.B.)

.... Petitioner

Versus

1. The State of Bihar
2. Birendra Rai Son of Late Gauri Shankar Rai R/o Village-Purkhas, P.S.
Gopalpur, District Gopalganj.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Akhilesh Kumar, Advocate
For the State	:	Md. Mushtaque Alam, APP
For O.P. No.2	:	Mr. Sanjay Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 04-10-2017

Heard learned counsel for the petitioner and learned counsel
appearing on behalf of the State.

2. Petitioner seeks quashing of order dated 07.09.2012,
passed by Judicial Magistrate, 1st Class, Gopalganj in Complaint Case
No.1587 of 2012 (T.R. No.3616 of 2012) taking cognizance of the
offence under Sections 342, 384 and 504 of the Indian Penal Code.

3. Brief fact, as stated in the complaint, is that the
complainant and the accused-petitioner both are full brothers but the
accused had stolen his bank pass-book and cheque and in order to
grab the residential house of the village he forged his signature on the
cheque and filed a case and issued notice to him. Knowing this fact
the complainant filed a case against the petitioner and after taking



cognizance in the matter, the accused one day came to the house of the complainant along with three associates and on the point of revolver asked him to withdraw the complaint case earlier lodged by him but he refused then forcibly the petitioner asked him to write that he was withdrawing the case earlier lodged by him.

4. Learned counsel for the petitioner submits that the petitioner is a qualified doctor practicing in Kolkata and from his income he built a house at the native village also and the complainant being an unemployed person asked for financial help, so he gave him huge amount as loan for purchasing vehicles for earning his livelihood. In security the complainant issued two cheques of Rs.15,00,000/- and Rs.10,00,000/- but when the petitioner presented those cheques in the Bank they got bounced, so the petitioner sent a legal notice to the complainant and when the complainant failed to make payment then filed two complaint cases numbered as 8 of 2012 and 112 of 2012 in the court of Judicial Magistrate-VII, Howrah. Thereafter the case of stealing cheque-book and forging cheque in the name of the complainant was filed by him and this case also. It is also submitted by learned counsel for the petitioner that complainant was involved in illegal activities and police raided the house, therefore, the petitioner sent legal notice to him to vacate the house of the village built by the petitioner, so being aggrieved by these actions of the



petitioner, the complainant has lodged these false cases. Contrary to that the learned counsel appearing on behalf of the complainant submits that *prima facie* case is made out against the petitioner.

5. Having considered rival submissions and on perusal of the records, the Court finds that the petitioner and the complainant are full brothers and they are on litigating terms as earlier the petitioner filed two complaint cases in the Howrah court against the present complainant with regard to bouncing of cheques issued by the complainant. Subsequently two cases were lodged by the complainant, i.e., Complaint Case No.2851 of 2011 and the present complaint case. The first case relates to stealing of cheque-book and using it by forging his signature and another the present complaint case. The criminal proceeding in Complaint Case No.2851 of 2011 has been quashed by this Court, so in order to wreck personal vengeance the present complaint appears to have been filed. In the complaint petition it is mentioned that the petitioner forcibly compelled the complainant to write that he is withdrawing the complaint case but the statement given on Solemn Affirmation shows only put his signature on a blank sheet of paper. He also admits that there is dispute with his brother due to share issue in the property. Moreover, the allegation also appears absurd and improbable so the entire criminal proceeding inclusive of cognizance order dated



07.09.2012, passed by Judicial Magistrate, 1st Class, Gopalganj in Complaint Case No.1587 of 2012 is hereby set aside.

6. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.10.2017
Transmission Date	07.10.2017

