

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4765 of 2012

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Pranab Kumar Sen Sharma S/O Shree Lilamay Sen Sharm, at Present Working as
Branch Manager, Keewa Branch, P.S- Chainpur, District- Kaimur at Bhabhua.

.... Petitioner

Versus

1. The State of Bihar
2. Ajay Kumar Singh S/O Kishori Singh Resident of Ward No.4, Police Station-
Bhabhua, District- Kaimur at Bhabhua.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Onkar Kumar, Advocate
For the Opposite Party No.2	:	Mr. Kumar Sunil, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 01-08-2017

This application under section 482 of the Cr.P.C. has been
filed to quash the order dated 12.01.2012 passed by learned CJM,
Kaimur at Bhabhua in Complaint Case No.1056 of 2011 whereunder
the learned CJM finding prima-facie case for the offence under
sections 420, 406 and 409 of the IPC, summoned the petitioner.

2. Heard both sides and perused the record.

3. The facts in brief is that the Opposite Party No.2 filed as
complaint case on the file of CJM, Bhabhua alleging inter-alia that he
had deposited three cheques bearing no.151305, 151302 and 389329
total for a consideration of Rs.12,440,21/- in the bank for crediting in
his account no.173628500000. All the three cheques was deposited in
the year 2011. The amount of three cheques were neither credited in



his account nor proper rely was given to the notices issued on Opposite Party No.2. The bank cashier has cheated the complainant and also committed breach of trust with respect to the amount of three cheques. The learned Magistrate after recording the statement of complainant on S.A and his witnesses found prima-facie and summoned the petitioner to face the trial for the offence under Sections 406, 409 and 420 of the IPC.

4. It has been submitted that the petitioner was the Manager of Canara Bank on the relevant date and now he has retired from service. In course of his duty, he send all the three cheques to the clearing branch from where he got information that all the three cheques bounced on account of insufficient fund. The complainant was properly replied. The allegation against this petitioner is vague and no offence under the aforesaid Sections is made out. It was also submitted that the complainant filed a case before the District Consumer Forum, Bhabhua bearing Consumer Case No.692 of 2012 which was allowed in his favour and the petitioner was directed to pay the said amount along with interest. The bank of this petitioner filed Ist Appeal No.187 of 2014 before State Consumer Disputes Redressal Commission, Bihar Patna which after hearing was allowed and the order of the District Consumer Forum was set aside. The matter has been finally settled and so the criminal prosecution of this petitioner



would be abuse of the process of the Court and so the same is fit to be quashed.

5. Learned APP for the State as well as Opposite Party No.2 submits that the three cheques which were deposited were neither returned to the complainant nor any reply was given. Petitioner could not take any step against the persons who had issued the cheques and so he has been put to loss to the tune of Rs.12,440,21/-. The petitioner was obliged to return the cheques along with the interest from the date of bouncing of the said cheques and so the learned Magistrate has rightly taken cognizance against the petitioner.

6. On perusal of impugned order, complaint petition and documents annexed with this application, I find that admittedly the Opposite Party No.2 had deposited three cheques in the bank of the petitioner who was then Manager of the said bank. The petitioner in spite of repeated request and legal notice did not return the cheques. The petitioner was required to return to all the three cheques with the reasons of bouncing of the cheques. The complainant for want of three cheques could not file any complaint case or take any legal step against the person who issued the cheques in his favour. The learned Magistrate has rightly taken cognizance against the petitioner on account of negligent/deliberate act of the petitioner. The impugned



order taking cognizance does not suffer any illegality. The petitioner will have opportunity to raise his defence at the stage of trial.

7. In view of the above facts, I do not find any merit in the application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	10.08.2017
Transmission Date	10.08.2017

