

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46072 of 2014

Arising Out of PS.Case No. -973 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Prabhat Kumar Singh, Son of Late Prabhunath Singh, Resident of village-
Mohammadpur Khargi, P.S.- Mirganj, District- Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar
2. Virendra Singh, Son of Late Pasupati Singh, Resident of village- Jigna Jagarnath,
P.S.- Mirganj, District- Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma, Adv.

For the Opposite Party no.1 : Mr. Nawal Kishore Prasad, Adv.

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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
APP for the State.

The petitioner is aggrieved by the revisional order
dated 16.08.2014 passed by the learned 1st Additional Sessions Judge,
Gopalganj in Criminal Revision No.877 of 2013 by which the learned
Additional Sessions Judge has refused to interfere with the order
dated 07.08.2013 passed by the learned Judicial Magistrate-1st Class,
Gopalganj in Complaint Case No.973 of 2013, Trial No.3797 of 2013
by which the learned Magistrate has taken cognizance of the offences
under Sections 417 and 406 of the Indian Penal Code and issued
summons to the petitioner.



Learned counsel for the petitioner by referring to the complaint, as contained in Annexure-1 to the present application, submits that although there are allegations that a sum of Rs.6 lacs was given to the petitioner by the complainant and the petitioner had issued cheque duly signed by him towards refund of the said amount which stood dishonoured on presentation, but the fact remains that the complainant has not filed any case for the alleged dishonour of the cheque.

Learned counsel further submits that both the courts below have committed grave error in appreciating the case of the petitioner that once the complainant has not taken any recourse against the dishonour of cheque, the same cannot be a ground to take a prima facie view for purpose of taking cognizance.

On the other hand, learned APP opposed the prayer for quashing and submitted that so far as the allegations made in the complaint petition are concerned, a bare perusal of the same would show that there are allegations of receiving money by this petitioner which he has failed to return and the cheque issued by him was dishonoured. Even though the complainant did not take any action by issuing notice against dishonour of the cheque, the said cheque and factum of dishonour thereof can always be used for collateral purpose to satisfy the court for a prima facie view.



This being the position, the court has not committed any error in taking cognizance of the offence and no interference is required by this Court particularly when the petitioner has already availed the revisional jurisdiction against the order taking cognizance.

This Court has perused the complaint petition and the materials on the record. It has to be kept in mind that his petitioner has moved this Court under Section 482 Cr.P.C. after he failed to satisfy the revisional court. The learned counsel for the petitioner has not been able to satisfy with any kind of perversity in the order passed by the revisional court. The allegations made in the complaint petition duly supported by the enquiry witnesses depositions of whom are enclosed as Annexure-2 series would compel to this Court to take a view that a prima facie case is there and the learned Magistrate has not committed any error in issuing summon to the petitioner. No illegality or infirmity could be found in the impugned orders.

The application therefore stands dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.10.2017
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