

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5871 of 2014

Arising Out of PS.Case No. -3033 Year- 2006 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. M/S Khazana Projects & Industries Pvt. Ltd., having Office At 5, Clive House T.S. 2, Strand Road, Kolkata 700001 through Its Director Anil Todi Petitioner No.-2.
 2. Anil Todi @ Anil Kumar Todi, Son of Sri Niranjanlal Todi, carrying business from Aparna Business Centre-5, Clive House, Strand Road, Kolkata-700001.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sri Uprndra Chouhan, Son of Late Ram Bachan Singh, Residing At 8-D, Rajeev Nagar, District-4.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s :

For the Opposite Party/s :

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 01-08-2017

Heard learned counsel for the petitioners.

2. The petitioners have filed this application, under Section 482 Cr.P.C., for quashing order dated 31.03.2007 passed by the learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 3033(C) of 2006, whereby he has taken cognizance of offence under Section 420 of the Indian Penal Code and Section 138 of the Negotiable Instrument Act(in short 'N.I.Act').

3. The complaint case, in brief, is that the accused persons



issued a cheque dated 02.08.2006 of a sum of Rs. 3 lacs in the name of the complainant to discharge his outstanding liability but the same got dishonoured when presented in the bank and it intimated to the complainant by issuing letter dated 07.08.2006. Thereafter notice was sent to the drawer on 15.09.2006/16.09.2006 under registered cover to accused persons and the same was received on 21.09.2006, despite receipt of the said notice, they did not respond by paying the cheque amount within 15 days. Thereafter complaint was filed on 20.10.2006.

4. It is submitted on behalf of the petitioners that it is the requirement of the provision of law, under Section 138(b) of the N.I.Act to issue notice within 30 days of the receipt of the information of dishonour of cheque. In the present case, the complainant got the notice on 07.08.2006 but notice was issued on 15.09.2006/16.09.2006 after expiry of 30 days, therefore, order taking cognizance is bad in law. Second contention is that no part of cause of action arises within the jurisdiction of the court at Patna as all transactions were done in Kolkata, so on this ground the impugned order may be set aside. Learned counsel for the petitioner relies upon the case of *Sree Mahesh Stationaries & Anr. v. Indiabulls Financial Services Ltd.* reported in **2014(4) Cri. L. J. 4853**.

5. Whereas, learned counsel appearing on behalf of the O.P. No. 2, submits that legal notice was sent to the drawer on



15.09.2006 and it is categorically mentioned that I.C.I.C.I. Bank at Kolkata vide bankers intimation dated 07.08.2006 informed to the H.D.F.C. Bank at Patna and the information regarding return of cheque was received by him on 18.08.2006 so the notice was issued to the drawer accused persons on 15.09.2006/16.09.2006 within 30 days but he failed to pay cheque amount within stipulated period of 15 days. Thereafter, within a month, the present complaint has been filed. On the point of territorial jurisdiction, by filing a supplementary affidavit on behalf of the O.P. No. 2, he submits that O.P. No. 2 has got his bank account in H.D.F.C. Branch at Patna and the cheque issued by the petitioners were presented at H.D.F.C. Branch at Patna, so the jurisdiction to file the complaint case also lies at Patna.

6. Having considered rival submissions and on perusal of record, this much is apparent that cheque was issued by the petitioners in favour of O.P. No. 2 which got dishonoured. As far as on the point of territorial jurisdiction is concerned, as it is stated in the supplementary affidavit filed on behalf of the O.P. No. 2 that cheque issued by the petitioners was presented at H.D.F.C. Branch at Patna, so at this stage, in view of such stated fact, the territorial jurisdiction of the court at Patna is maintainable. The dispute raised by the petitioners that payee received the notice of dishonoured cheque on 07.08.2006 and not on 18.08.2006, such disputed fact can only be



ascertained during trial.

7. Therefore, for the reasons, stated above, this Court does not find any ground for interference in the impugned order dated 30.03.2007. Accordingly, this application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2017
Transmission Date	29.08.2017

