

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46977 of 2013

Arising Out of PS.Case No. -2492 Year- 2011 Thana -BEGUSARAI COMPLAINT CSAE District-
BEGUSARAI

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1. Deo Narayan Prasad Son Of Alte Shital Prasad Resident Of Mohalla - Telia Patti,
Laheriagng, P.O. + P.S.- Madhubani Town, District - Madhubani.

.... Petitioner/s

Versus

1. The State Of Bihar.

2. Nand Kishor Prasad Son Of Deo Narayan Prasad Resident Of Village - Ballia,
Bazar, P.O.- Lakhminia, P.S.- Ballia, District - Begusarai.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Adv
For the Opposite Party no.2 : Mr. Sandip Kumar Gautam, Adv
For the State : Mr. Kalyan Shanker, APP

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date: 19-07-2017

Heard learned counsel for the parties.

The present quashing application under Section 482
of the Cr.P.C has been filed for quashing the order dated 16.07.2013
passed by the Additional Sessions Judge-V, Begusarai, in Criminal
Revision No. 264 of 2012, by which the learned Additional Sessions
Judge dismissed the revision petition of the petitioner and affirmed
the order dated 26.04.2012, passed by learned Shri Gaurav Anand,
Judicial Magistrate, 1st Class, in Complaint Case No. 2492 C/11, by
which the learned Judicial Magistrate, 1st Class took cognizance



against the petitioner for the offence under Section 138 of the N.I. Act.

The complainant had filed a complaint case in the court below inter alia alleging that accused Deo Narayan Prasad (petitioner) issued a cheque of Rs. 5 lacs from his Account No. 30743025620, State Bank of India, Lakhminia Branch, vide Cheque No. BD/45-613090 issued in the name of complainant to liquidate his previous debt. The complainant (Opposite Party No. 2) presented the said cheque but the same could not be honoured and was informed that the bank account of Deo Narayan Prasad (petitioner), who had issued the said cheque was closed. Thereafter complainant-opposite party no. 2, sent legal notice to Deo Narayan Prasad (petitioner) but even thereafter no steps were taken by Deo Narayan Prasad (petitioner) to satisfy the debt and as such complainant-opposite party no. 2, had no option but to file a complaint case under Section 420 of the Indian Penal Code and 138 of the N.I. Act. The complainant was examined on S.A. and in support of his claim, one witness was examined in the court below and on the basis of materials before the court below, it took cognizance under Section 138 of the N.I. Act against the sole accused Deo Narayan Prasad (petitioner) and issued summons for his appearance. Against the order taking cognizance dated 26.04.2012, the petitioner had filed a Criminal Revision No.



264 of 2012, and the same was also dismissed by the Additional Sessions Judge-V, Begusarai on 16.07.2013. The court below after due consideration of the case of complainant and witnesses examined in support of the complaint case and materials available on record, found *prima facie* case against the petitioner under Section 138 of the N.I. Act and issued summons for his appearance. The revisional court also after due consideration of the case of the revisionist and after going through the entire materials available on record including the L.C.R., dismissed the revision petition.

After hearing the parties and going through the order passed by the learned courts below, I do not find any error, illegality or infirmity in the same requiring any interference by this Court, as such the present petition filed under Section 482 of the Cr.P.C is, dismissed.

(S. Kumar, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.07.2017
Transmission Date	24.07.2017

