

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15355 of 2014

Arising Out of PS.Case No. -1028 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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Neeraj Kumar Shrivastava Son Of Nirmal Kumar Shrivastava, Resident Of Flat No.
203, Lalita Nikunj Appartment, B Area Mithapur, P.S. Jakkanpur Patna, District-
Patna

..... Petitioner/s

Versus

1. The State Of Bihar
2. Digvijay Kumar Son Of Diwakar Tiwary Pragati Path, New Bengali Tola, P.S.-
Jakkanpur, District- Patna

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Upendra Prasad-II
For the Opposite Party/s : Mr. Kr. Ranjit Ranjan, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
Date: 21-09-2017

Heard both the parties.

Petitioner, by means of this application under
section 482 of the Cr. P.C., have invoked the inherent jurisdiction
of this Court with prayer to quash the order dated 23.11.2012
passed by Judicial Magistrate, 1st Class, Patna, in connection with
Complaint Case No. 1028(c), whereby cognizance has been taken
against the petitioner for the offence under section 420 of the I.P.C.
and section 138 of the Negotiable Instruments Act.

The contention of learned counsel for the petitioner



is that no offence against the petitioner is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the petitioners. At this stage only *prima facie* case is to be seen in the light of the law laid down by the Supreme Court in cases of ***R.P. Kapur Vrs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vrs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vrs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vrs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vrs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348.*** The submissions made by the learned counsel for the petitioner call for adjudication on pure questions of fact which may be adequately gone into by the Trial Court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. The



prayer for quashing the order taking cognizance is refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
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