

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6831 of 2013

Arising Out of PS.Case No. -1693 Year- 2012 Thana -PATNA COMPLAINT CASE District- -

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Smt. Poonam Gupta, Proprietor of M/S P.P. Publications, R/O 6/12, West Patel Nagar, New Delhi-110008.

.... Petitioner/s

Versus

1. State of Bihar
2. Amit Kumar Singh, Proprietor of M/S Amit Books, R/O Lalita Market, Thakurbari Road, Kadamkuan, P.S.-Kadamkuan, Distt.-Patna

... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jagjit Roshan, Advocate.
Mr. Apul, Advocate.
Mr. Rajeev Ranjan, Advocate.

For the Opposite Party/s : Mr. Ajay Kumar NO. 1, APP.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 14-11-2017

Heard learned counsel for the petitioner and learned counsel for the State. None appears on behalf of the O.P. No. 2.

2. Petitioner seeks quashing of order dated 09.10.2012 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1693C of 2012 thereby taking cognizance of offence under Section 406 of I.P.C. against the petitioner and issued summons to stand trial.

3. A brief fact giving rise to the case is that petitioner has a publication firm, known as M/s P.P. Publications situated at New



Delhi of which she is the Director. The representative of the company approached the complainant, a book seller, at Patna to sell the books published by the company though there was no any written agreement. The complainant started selling books published by the petitioner's company and handed over one blank cheque as security. The complainant used to sell books and on being supplied books, he used to pay the price of the books. Complainant paid in total Rs. 78,180/- for the books sold by him and also returned unsold books worth Rs. 45,296/-. It is alleged that cheque was misused by the petitioner by filing a case under Section 138 of the Negotiable Instrument Act (in short ' N.I.Act') against him and by presenting a cheque amounting to Rs. 1,31,484/-, given in security, was presented to bank, as the account of the complainant was closed so it bounded. This came to the knowledge of the complainant after receiving the legal notice from the petitioner and subsequently the complaint was filed.

4. Learned counsel for the petitioner submits that complainant had issued a cheque to the petitioner against standing liabilities against him to pay the price of the books purchased by him, when the cheque was presented by the petitioner it got bounced, so a legal notice was sent to the drawer, the complainant, thereafter maliciously this case was filed. A complaint has been filed by the



petitioner relating to bouncing of cheque under Section 138 N.I.Act against the present complainant in Tis Hazari Court, Delhi. Accused Amit Kumar Singh appeared there and compromise the case, the certified copy of statement of Amit Kumar Singh, accused in Complaint Case No. 580P of 2012 instituted by the petitioner against him in Delhi shows that he has settled the matter with the petitioner for a sum of Rs. 1,65,000/- and paid the said amount in cash to the petitioner in the court and also gave undertaking to withdraw the present complaint Case No. 1693C of 2012 filed against the petitioner pending at Patna. On the basis of compromise, the said complaint case instituted by the petitioner in Delhi was disposed of, as stated vide Annexure-7 and the certified copy of the said order has been filed by the petitioner.

5. So it explicit that the petitioner earlier sent a legal notice to the present complainant under Section 138 of N.I.Act, intimating him to make payment of cheque amount of Rs. 1,31,484/-. Subsequently, the complaint was filed against the present complainant under Section 138 of N.I.Act in Delhi. In the said complaint case, the present complainant admitting the due amount owed to the book supplier, the petitioner settled the matter instituted by the petitioner by paying her Rs. 1,65,000/-. Hence, there cannot be any another conclusion, save and except, that the complainant has filed the present



complaint in order to wreck vengeance against the petitioner. So continuation of the criminal proceeding in the matter will be abuse of the process of court.

6. Hence, the criminal proceedings of Complaint Case No. 1693C of 2012 including the cognizance order dated 09.10.2012 is hereby quashed. The application stands allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2017
Transmission Date	17.11.2017

