

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.30243 of 2013**

Arising Out of PS.Case No. -2830 Year- 2011 Thana -PATNA COMPLAINT CASE District-  
PATNA

- =====
1. Goutam Medical Agency, through Uma Shankar Singh, Hospital Road, Laheria Sarai, Darbhanga, P.S. Laheria Sarai, Distt- Darbhanga
  2. Uma Shankar Singh, S/O Shri Ram Bilash Singh, Proprietor, Goutam Medical Agency, Hospital Road, Laheriasarai, Darbhanga, P.S.- Laheriasarai, Distt.- Darbhanga

.... .... Petitioner/s

Versus

1. The State of Bihar
2. Mr. Rishu Kumar Bansal, S/O Ram Prasad Bansal, Business Controller of M/S Classic Associates, Bansal Villa, New Bahadurpur, Bazar Samiti Road, P.S.- Kadamkuan, District & Town Patna

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Jagnnath Singh, Advocate  
For the Opposite Party/s : Mr. Ramesh Kumar Agrawal, Advocate  
APP

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**ORAL JUDGMENT**

**Date: 09-01-2017**

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated, 07.02.2012, passed by Sri Sunil Kumar II, Judicial Magistrate, 1<sup>st</sup> class, Patna, in Complaint Case No.2830-C of 2011 by which he has taken cognizance under Section(s) 138 of the Negotiable Instrument Act read with 120-B Indian Penal Code against the petitioner no.1 and under Section 138 of the Negotiable Instrument Act against the petitioner no.2.

Heard learned counsel for the petitioners and the



Opposite Party No.2 as well as the learned counsel for the State.

Main contention of the learned counsel for the petitioners is that the complainant is the attorney holder of Smt. Maya Devi Bansal, Proprietor of M/s Classic Associates, and he is not authorized to file complaint on behalf of M/s Classic Associates. It has further been submitted that the blank cheque was used by the complainant.

On the other hand, it has been submitted on behalf of the complainant that Rishu Kumar Bansal was appointed as lawful attorney by Smt. Maya Devi Bansal, Proprietor of M/s Classic Associates, w/o Sri Radhe Shyam Bansal, of the said firm to conduct on behalf of the firm all legal proceedings whether criminal or civil in case of any dispute between the firm and the transporter for the supplies made through them to M/s Gautam Medical Agency, Hospital Road, Laherasarai, Darbhanga, District & Town-Darbhanga (Annexure-3). It has further been submitted that no blank cheque was used by the complainant. In fact, the cheque dated 01.09.2011, which has been dishonoured with endorsement of the bank "Exceeds Arrangement" had been issued by Uma Shankar Singh, petitioner No.2.

Having heard both the parties and perusal of the allegation as made in the Complaint Petition and the annexure



annexed therewith, it appears that M/s Classic Associates, Patna, was dealing in medicines to wholesalers and distributors in various districts of Bihar through carrier. The accused persons issued the cheque dated 01.09.2011 of Oriental Bank of Commerce, Laheria Sarai, in favour of M/s Classic Associates for ₹97,193.00. The complainant deposited the same to his banker M/s Bank of Baroda, S. K. Puri Branch, Patna, which was bounced and the complainant got knowledge on the next day for the reason mentioned in the Bank Memo that “Exceeds Arrangement”. The complainant approached the accused persons and requested to make payment but no payment was made.

During the course of enquiry, the complainant was examined on Solemn Affirmation and statement of other witnesses was also recorded by the learned Magistrate, who found *prima facie* case under Section(s) 138 of the Negotiable Instrument Act read with 120-B Indian Penal Code against the petitioner No.1 i.e. M/s Gautam Medical Agency and under Section 138 of the Negotiable Instrument Act against the petitioner No.2- Uma Shankar Singh.

Annexure-3 filed on behalf of the petitioners clearly shows that Smt. Maya Devi Bansal, w/o Sri Radhe Shyam Bansal, in the capacity of Proprietor of M/s Classic Associates, having its registered office at Bansal villa, Bazar Samiti Road, New



Bahadurpur, Patna- 800 016, appointed Mr. Rishu Kumar Bansal, son of Ram Prasad Bansal, resident of Bansal Villa, Bazar Samiti Road, New Bahadurpur, Patna- 800 016, as lawful attorney of the said firm to conduct on behalf of the firm all legal proceedings whether criminal or civil in case of any dispute between firm and the transporter for the supplies made through them to M/s Gautam Medical Agency, Hospital Road, Laheria Sarai, Darbhanga, District & Town-Darbhangha.

In this manner, on the basis of Annexure-3, Rishu Kumar Bansal (complainant) was quite competent to file the complaint on behalf of the Proprietor Smt. Maya Devi Bansal against the accused persons for the alleged offence committed by them as mentioned in the Complaint Petition.

It further appears from perusal of Annexure-4 that M/s Classic Associates has returned the blank cheque No.007483 drawn on Central Bank of India given against the order placed for Neon Laboratories by M/s Gautam Medical Agency, Laheriasarai (petitioner No.1) vide letter dated 19.07.2010. The alleged cheque of ₹97,193.00, which got bounced, had been issued by petitioner No.2, Uma Shankar Singh, in favour of M/s Classic Associates on 01.09.2011.

Therefore, this Court is not satisfied with the



submission made on behalf of the petitioners that the complainant has used the blank cheque and has made false claim against the petitioners. It is admitted position that the cheque dated 01.09.2011 was issued by the petitioner No.2 for a sum of ₹97,193.00 in the name of M/s Classic Associates, which bounced with endorsement of the bank “Exceeds Arrangement”. The aforesaid amount was not paid to the complainant by the petitioners in spite of legal notice having been sent to them as well as personal request made by the complainant.

The learned Magistrate after looking into the Solemn Affirmation of the complainant and the statement of other witnesses found *prima facie* case under Section(s) 138 of the Negotiable Instrument Act read with 120-B Indian Penal Code against the petitioner No.1 and under Section 138 of the Negotiable Instrument Act against the petitioner No.2, who has issued cheque in the name of M/s Classic Associates. It further appears from the order-sheet that on 17.04.2013, even the petition filed on behalf of the petitioners to drop the proceeding on the ground that they have been falsely implicated in the case, was rejected by the lower Court after hearing both the parties.

Therefore, this Court does not find any illegality in the impugned order of cognizance dated, 07.02.2012, passed by Sri



Sunil Kumar II, Judicial Magistrate, 1<sup>st</sup> class, Patna, in Complaint  
Case No.2830-C of 2011.

The application is dismissed.

(Sanjay Priya, J)

JA/-

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