

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36896 of 2014

Arising Out of PS.Case No. -3218 Year- 2012 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

=====

Neeraj Kumar Singh Son of Subodh Kumar Singh resident of village + Post-
Kodaria, P.S.- Shivaipatti, District- Muzaffarpur, At Present residing Mohalla-
Akharaghat Sadhugachhi, P.S.- Ahiyapur, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Ramesh Kumar Deepu Son of Madan Kishor Prasad resident of Mohalla- Juran
Chhapara, P.S.- Brahampura, District- Muzaffarpur

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh, Advocate
For the Opposite Party/s : Mr. Ashok Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

CAV JUDGMENT

Date: 06-09-2017

The instant application has been filed for quashing of the order taking cognizance dated 13.09.2013 passed by the Court of Judicial Magistrate 1st Class, Muzaffarpur on the complaint filed by the complainant for the offences under Section 420 of the Indian Penal Code.

The case of the complainant is that the accused no. 1 had issued power of attorney in relation to some lands in favour of the complainant on which the accused no. 2 had signed as a witness. It is further alleged that as advance Rs. 4 lacs in cash was paid to the accused no. 1 and on his instruction a cheque of Rs. 3 lac was given



to the petitioner no. 2 who was witness to the said power of attorney. It is also alleged that the complainant thereafter, came to know that in fact the accused nos. 1 and 2 had been operating conspiracy since before and that they issued power of attorney in relation to same lands which had been earlier issued in favour of other persons. It is thereafter, alleged that in the aforesaid manner the two accused persons under conspiracy to derive the wrongful gain had taken Rs. 4 lac in cash and Rs. 3 lac through cheque by practicing fraud and as such they caused wrongful loss to the complainant.

Counsel for the petitioners submits that the cheque for Rs. 3 lacs had in fact been issued for different transaction and had also been dishonored prior to filing of the Complaint Case No. 3218 of 2012. He further submits that in respect of the said cheque he has already filed Complaint Case No. 2500 of 2012 (Annexure 4) against the complainant of the instant case and in the said case also cognizance has been taken.

Petitioners' submission that the said cheque of Rs. 3 lac was for the different transaction, is factual denial of the case made out in the complaint petition.

From the averments made in the complaint petition it appears that *prima facie* there was sufficient material before the Court below for taking cognizance of the offence under Section 420



IPC.

In view of the discussions aforesaid, there is no scope for exercising jurisdiction under Section 482 Cr.P.C in favour of the petitioners. The instant quashing application is accordingly, dismissed. However, it would be open to the petitioners to raise all the issues before the Court below at the appropriate stage in accordance with law which may be considered by the court below without being prejudiced by dismissal of the instant petition.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	07/09/2017
Transmission Date	07/09/2017

