

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43983 of 2014

Arising Out of PS.Case No. -2921 Year- 2007 Thana -PATNA

COMPLAINT CASE District- PATNA

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Mukti Nath, Son of Ram Lakhan Prasad, R/o Mohalla
Purandarpur, P.S. Jakkanpur, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Mahendra Kumar, Son of Shri Etwari Ram, R/o Mohalla
Purandarpur, Dopulwa, P.S. Jakkanpur, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijay Bihari Sinha, Adv.

For the State : Mr. Jitendra Kr. Singh 1, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

6 31-01-2018 The petitioner is aggrieved by the order dated
21.04.2014, whereby the learned Sessions Judge, Patna
has admitted the appeal and has stayed the quantum of
fine imposed by the learned Magistrate (Trial Court), on
the ostensible ground that it was beyond the scope of a
Magistrate to impose fine of more than Rs. 10,000/- in
accordance with Section 29(2) of the Code of Criminal



Procedure, 1973 (*in short* '**the Cr.P.C.**').

The learned Advocate appearing for the petitioner has submitted that the appellate Court was absolutely wrong in taking reference of the provision of Section 29(2) of the Cr.P.C. in a case which was tried by the learned Magistrate under Section 138 of the Negotiable Instruments Act, 1881 (*in short* '**the Act**').

Section 138 of the Act provides for conviction and sentence of imprisonment, extendable for two years and with a fine which may extend to twice the amount of the cheque or with both.

It appears to this Court that even if the appeal would have been admitted and the judgment and order passed by the trial Court would have been stayed, the result would have been the same, *viz.*, stay over the realization of the fine.

In that view of the matter, without passing any order on merits, this Court directs the appellate Court to dispose of the appeal as expeditiously as possible, preferably within a period of three months from the date of production/receipt of this order.

Needless to state that the appellate Court shall look into the powers of the learned Magistrate, while convicting and sentencing an accused for the



offence punishable under Section 138 of the Act.

With the aforesaid observation, the application stands disposed of.

(Ashutosh Kumar, J)

Praveen-II/-

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