

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32033 of 2015

Arising Out of PS.Case No. -399 Year- 2009 Thana -GAYA COMPLAINT CASE District- GAYA

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Bholanath Sahu son of Late Chamari Sao, resident of Mohalla - Ashok Bihar Colony, Ghughritad, Police Station – Civil Line, District -Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Vijay Kumar son of Late Kailash Prasad, resident of Mohalla- Pir Mansoor Road, First Ramna Lane, Police Station- Civil Line, District- Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sinha, Advocate
For the State : Mr. A.L.Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-01-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Section 482 of the Code of Criminal Procedure (for short ‘the Cr.P.C.’) has been filed by the petitioner for setting aside the order dated 20.02.2015 passed by the learned Sessions Judge, Gaya in Criminal Revision No.24 of 2015 by which he has dismissed the revision application filed against the order dated 03.01.2015 passed by the learned Judicial Magistrate, 1st Class, Gaya whereby the learned Judicial Magistrate after considering the evidence on record has found sufficient materials to frame charges against the petitioner under Section 138 of the Negotiable Instruments



Act and rejected the petition filed under Section 245 of the Cr.P.C. seeking discharge.

3. Learned counsel for the petitioner submitted that the cheques issued by the petitioner were not in discharge of any liability or debt rather the petitioner had lost his purse in which he was carrying two cheques and information in this regard was also given to the police which were misused by the complainant.

4. The defence taken by the petitioner before the learned Magistrate was not supported with any evidence. The learned Magistrate while dealing with the application filed under Section 245 of the Cr.P.C. clearly held that on dishonour of cheques, notice was issued to the petitioner in time and despite having received notice, the petitioner failed to make payment of the cheques amount to the complainant within time, the complainant filed his complaint before the court within the time stipulated under Section 138 of the N.I.Act. The learned Magistrate has also appreciated the evidence of four witnesses recorded before charge in support of the complaint who all have supported the case of the complainant.

5. Having regard to the materials on record, the learned Magistrate dismissed the application filed under Section 245 of the Cr.P.C. When the order passed by the learned Magistrate was challenged before the revisional court, the revisional court also passed



an elaborate order discussing the facts and law involved in the case.

6. In my considered opinion, no illegality or irregularity can be found with the order passed by the revisional court or the Court of Magistrate. Even otherwise, the application filed under Section 482 of the Cr.P.C. is in the nature of second revision which is barred under Section 397(3) of the Cr.P.C.

7. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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