

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6546 of 2018

Arising Out of PS. Case No.-585 Year-2016 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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Satyendra Kumar Sharma, Son of Sri Ram Pujan Sharma, Resident of Mohalla- Jai Prakash Nagar, Katira, Police Station- Ara Nawada in the district of Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Dharmendra Singh, Son of Sri Nand Kishore Singh, Resident of Village- Barap, Police Station- Garhana in the district of Bhojpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma
For the Opposite Party/s : Mr. Arun Kumar Singh -5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 04-05-2018 As prayed for, learned counsel for the petitioner is permitted to make necessary correction in the petition.

Heard learned counsels for the parties.

The petitioner is apprehending arrest in a complaint case wherein process has been directed to be issue after cognizance being taken for the offences punishable under section 420 of the IPC and Section 138 of the N.I. Act.

The complainant O.P. No. 2 Dharmendra Singh filed Complaint Case No. 585C of 2016 alleging therein that the petitioner being a builder took Rupees Seventy Five Lacs from the complainant on different occasions with an assurance to return the same but the same was not returned. Subsequently, the petitioner agreed to give five flats in lieu of Rupees Seventy Five Lacs but the complainant came to know that the petitioner



has no flat then the complainant demanded money whereupon the petitioner issued a cheque of Rupees Seventy Five Lacs dated 24.2.2014 drawn on Punjab National Bank, Station Road, Ara but the same got bounced since the account was closed on 29.8.2014.

It is submitted by learned counsel for the petitioner that the petitioner is a builder and the complainant used to run JCB machines being used for the construction work undertaken by the petitioner and in that connection there was money transaction between the petitioner and the complainant. There is no proof with regard to the payment of Rupees Seventy Five Lacs and the cheque which is alleged to have been issued by the petitioner is a missing cheque of which the complainant is taking advantage. Even assuming the accusation, no case under section 138 of the N.I. Act is made out as the cheque did not bounce due to insufficiency of fund rather due to the account being closed.

Learned counsel for the complainant submits that the petitioner is in habit of committing such frauds earlier also as three cases have been filed against him with similar accusation. However, it is submitted by learned counsel for the petitioner that in two cases final report has been submitted and there was



no occasion for the petitioner to issue cheque in favour of the complainant.

This Court vide order dated 30.3.2018, on the joint prayer of the parties, referred the matter to the Mediation and Conciliation Centre of Bihar State Legal Services Authority. It is submitted by learned counsel for the complainant that the complainant was ready to get the issue resolved through the process of mediation but the mediation failed due to apathetic attitude of the petitioner.

Considering the rival submissions of the parties, keeping in view the nature of accusation, particularly the fact that the entire alleged amount has been paid in cash and the accusation arising out of contractual nature of dispute, let the petitioner above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned JM Ist Class, Bhojpur in connection with Complaint Case No. 585C of 2016 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

Learned court below is expected to make an endeavor to conclude the trial within a period of one year. The learned court below



will be at liberty to cancel the bail bonds of the petitioner in
case the petitioner defaults on three consecutive occasions.

(Dinesh Kumar Singh, J)

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