

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3881 of 2017

Arising Out of PS. Case No.-1037 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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Manish Kumar, Son o Late Rampukar Bhagat, Proprietor of M/S Tridev Automobiles, M.G. Marg, Baluahi, Near Petrol Pump, P.S. Khagaria, District-Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Raj Kumar Singh, Proprietor of M/s Shub Rohini Enterprises Pvt. Ltd., Hari Charan Residency, Flat No. 103, Ambedkar Path, Near Palm Vies Hospital, Bailey Road, Patna- 14.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar-Advocate
		Mr. Siya Ram Sahi-Advocate
For the Opposite Party/s :		Mr. Sujit Kumar Singh-A.P.P.
For O.P. No.2	:	Mr. Satyendra Prasad-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 02-05-2019 Heard learned counsel for the petitioner as well as

learned Additional Public Prosecutor along with learned counsel

for the O.P. No.2.

Gone through the order impugned.

It has been submitted at the end of the learned counsel
for the petitioner that after expiry of the validity of the cheque,
this case has been filed putting false and frivolous allegation. It
has further been submitted that it happens to be an improbable
story that after expiry of validity of the cheque, one would go to
the office of the complainant and will ask for the cheque. The



aforesaid fact is indicative of the fact that instant prosecution happens to be malicious one. At the present moment, learned counsel for the petitioner also submitted that witnesses before charge has already been examined and then thereafter, petition under Section 245 Cr.P.C. has been filed on behalf of petitioner, which is pending for the last one year.

Learned Additional Public Prosecutor opposed the same and submitted that now, case has to be seen in the background of evidence whatever been adduced in accordance with Section 244 Cr.P.C. At the stage of taking cognizance only prima facie case has to be seen. It has also been submitted that criterion have been laid down by the Apex Court whereunder prosecution has to be quashed, and amongst the same, the *State of Hariyana & Ors. Versus Bhajan Lal & Ors. reported in AIR 1992 SC 604* is the prominent one.

Keeping in view the settled principle, when the order impugned has been gone through in consonance with the facts of the case, it is apparent that no allegation with regard to cheque has been made, rather the same happens to be motive. Furthermore, the materials having placed during course of inquiry satisfying the ingredients of offence justifying the order, hence the petition is found meritless and is dismissed.



However, the learned lower Court will endeavour to decide the issue having at the end of petitioner within three months from the date of receipt of the order.

(Aditya Kumar Trivedi, J)

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