

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.159 of 2018

Arising Out of PS. Case No.-607 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

Shyam Kishore @ Shyam Kishore Singh, Son of Late Rameshwar Singh,
Resident of Mohalla- 74/B Sidheshwar Nagar, P.S.- Patliutra, Town and
District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sunil Kumar, Son of Ram Chandra Prasad Sharma, residing at near T.V.
Tower, P.O.- Bahadurpur, P.S.- Agam Kuan, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dineshwar Prasad Singh, Adv.
For the Opposite Party/s : Mr. Arun Kumar Singh -5, APP
Mr. Ravi Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 19-11-2019 The petitioner seeks quashing of the order dated

10.04.2013 passed by the learned Judicial Magistrate, Ist

Class, Patna in connection with Complaint Case No. 607 of

2012, whereby cognizance has been taken under Section

420 of the Indian Penal Code and Section 138 of the

Negotiable Instruments Act.



Learned counsel for the petitioner submits that the cognizance under Section 138 of the Negotiable Instruments Act is bad in the eyes of law as the requirement for entertaining a complaint for such offence has not been complied with. With respect to the offence under Section 420 of the Indian Penal Code, it has been submitted that the offence is not made out as there was no intention from the beginning to defraud the complainant/opposite party No. 2.

In any view of the matter, the proceedings in this case have been stayed by the order of this Court, but such order has been passed only in the year 2019. This Court is not aware as to what happened after the order taking cognizance and before this case was taken up for admission.

In any view of the matter, the submissions made by the learned counsel for the petitioner that the cheque amount is now being returned to opposite party No. 2, has been affirmed by the counsel for the complainant/opposite party No. 2. Up-till-now, as averred, some payment has been made, but still the balance amount is due.

Since, this aspect of the matter was taken into



account by the Court while considering the question of bail, this Court deems it appropriate to direct the petitioner to make good the entire dues amount within a period of six months.

With the aforesaid observation/direction, the petition stands disposed of

If the entire payment within a period of six months, to be counted from the date of passing of this order, is not made, it would be open for the complainant/opposite party No. 2 to file an affidavit in this Court, whereby this case would be reopened.

(Ashutosh Kumar, J)

Praveen-II/-

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