

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37403 of 2019

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Dharmendra Kumar @ Masudan Rai, Son of Ranjan Prasad Resident of
Village - Sitjain Chak, P.S.- Gopalpur, Distt - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Aditya Kumar Son of Late Dina Rai Resident of Village - Bairiya, P.S.-
Gopalpur, Distt - Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dineshwar Prasad Singh

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 27-06-2019 Heard the learned counsel for the petitioner and

the State.

The petitioner seeks quashing of the order dated

12.03.2019 passed by the Sub-Divisional Magistrate, Patna

Sadar in Case No. 395 (M) of 2019, whereby the petitioner

and the Opposite Party No. 2 have been directed to appear

before the Court of the Executive Magistrate and file their

show-cause reply as to why a bond of Rs. 1 lakh with two

sureties of like amount be not asked to be executed for

maintaining peace for one year.

The order is absolutely clear and not vague and in



terms of Section 107 and 111 of the Code of Criminal Procedure.

It appears that the first party had paid Rs. 5,70,000/- to the petitioner for conveyance of a property. When the property was not transferred, the Opposite Party No. 2 demanded his money back. The petitioner is said to have issued a cheque of the aforesaid amount which could not be honoured. An effort is being made by the petitioner to force the Opposite Party No. 2 to withdraw the case under Section 138 of the Negotiable Instruments Act, 1881 lodged against him.

The police report is absolutely clear about the substance of the accusation against the petitioner.

Learned counsel for the petitioner submits that already a complaint case has been lodged by Opposite Party No. 2.

This does not absolve the responsibility of the police or of the Executive Magistrate to proceed against the parties under Section 107 of the Code of Criminal Procedure.

Since the substance of accusation is absolutely



clear and the petitioner has been made known that he has to offer reply as to why such bond for good behaviour be not asked to be executed by him, there is no reason why the notice and the order be set aside.

The petitioner must file his show-cause reply before the Executive Magistrate within the time specified in the order.

There is no merit in the petition and thus it is dismissed.

(Ashutosh Kumar, J)

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