

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.43946 of 2014**

Arising Out of PS. Case No.-1442 Year-2003 Thana- PATNA COMPLAINT CASE District-  
Patna

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Smt. Geeta Kumari, Wife of Sri Triloki Prasad Resident of Mohan Pur Devi  
Asthan at Present residing at Flat No. 204, Sangita Palace, Sheopuri, P.S. -  
Shastri Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Smt. Shanti Devi, Wife of Sri Birendra Sharma Resident of Village and Post -  
Parsawan, P.S. - Pandarakh, District - Patna at Present Residing at C/o Dr.  
C.D. Singh, 293, Nehru Nagar, P.S. - Patliputra, District- Patna.

... .. Opposite Party/s

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**Appearance :**

|                          |   |                                                                                                       |
|--------------------------|---|-------------------------------------------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. Praveen Kumar, Advocate<br>Mr. Dhananjay Kr. Singh, Advocate<br>Mr. Jyoti Ranjan Pandey, Advocate |
| For the State            | : | Mr. Jharkhandi Upadhyay, A.P.P.                                                                       |
| For the Opposite Party/s | : | None                                                                                                  |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN**  
**AMANULLAH**  
ORAL JUDGMENT

**Date : 29-01-2019**

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

2. Despite service of notice on opposite party no.2,  
nobody appeared when the matter was taken up and heard.

3. The petitioner has moved the Court under Section  
482 of the Code of Criminal Procedure, 1973 for the following  
relief :-

*“That, this Quashing application is being filed  
before this Hon'ble Court, against the order  
dated 21.06.2014, passed by Akanksha*



*Kashyap, Learned J.M. 1<sup>st</sup> Class, Patna in connection with Complaint Case No. 1442/2003, whereby and whereunder learned court below has been pleased to reject the discharge Petition, dated 7.1.2014, filed on behalf of the petitioner, under section 245 of the Cr. P.C. and has been further pleased to fix the date for framing of charge as 18.7.2014.”*

4. The allegation against the petitioner is that the opposite party no.2 had given Rs. 7 lakhs to her as advance money for purchase of piece of land along with house, the total value of which was Rs.10,51,000/-. However, it was alleged that the property was not transferred and the cheque of Rs. 7 lakhs, which was returned on 11.05.2003, was also not encashed.

5. Learned counsel for the petitioner submitted that the dispute is between two ladies and even at the time of recording of the evidence of opposite party no.2 on Solemn Affirmation, she had admitted before the court that the earnest money had already been returned to her, after filing of the case. It was further submitted that it being a money matter, is a civil dispute for which a criminal case should not be allowed to proceed.

6. Learned A.P.P. submitted that the law under the Negotiable Instrument Act itself provides for criminal prosecution and in the present case where it is admitted that the cheque was not



honoured and despite reminder, money not paid, besides criminal case being maintainable, the cognizance taken is also in accordance with law. It was further submitted that the opposite party no.2 has lost the value of money, as Rs. 7 lakhs was given in 2003 to the petitioner and was returned only in the year 2009 for which she is entitled to be compensated.

7. At this juncture, learned counsel for the petitioner readily agreed to a lump sum amount of Rs.1 lakh for paying to the opposite party no.2 to compensate her for the late return of the money.

8. Having considered the facts and circumstances of the case and submission of learned counsel for the parties, the Court is persuaded to interfere in the matter upon the fair stand taken by learned counsel for the petitioner with regard to compensating the opposite party no.2 for the loss suffered by her.

9. Accordingly, the entire criminal proceeding arising out of Complaint Case No.1442 of 2003, including the order dated 21.06.2014 by which cognizance has been taken against the petitioner, stand quashed subject to the petitioner paying Rs.1 lakh to the opposite party no.2 within three months from today. The same shall be done and affidavit filed by the petitioner in the present case latest by 6<sup>th</sup> May, 2019, failing which the Registry



shall place that matter before the Bench and the order quashing the complaint case as also the order taking cognizance shall stand recalled and the present application will also stand dismissed.

10. The application stands disposed off in the aforementioned terms.

**(Ahsanuddin Amanullah, J)**

Sanjeev/- Ranjeet

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