

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36120 of 2014
Arising Out of PS. Case No.-1956 CYear-2004 Thana- PATNA
Complaint Case District- Patna

=====

Surbala Jha W/o Ramesh Narayan Jha Proprietor of M/s Maa Kalekchewani Pharma, Mirzapur Chauk, Lal Bagh, Darbhanga.

... .. Petitioner/s

Versus

- 1.The State of Bihar.
2. Alok Kumar, R/o- Bajar Samiti Road, Rajendra Nagar, Patna-16

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kr. Tiwary, Advocate

For the State : Mr. Md. Arif, APP

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 10-01-2019

Heard learned counsel for the petitioner and learned A.P.P. for the State. Nobody appears on behalf of the opposite party no. 2.

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

“That this is an application on behalf of above named petitioner for quashing the order dated 23.09.2007 passed in connection with Complaint case No. 1956 © of 2004 bearing Trial No. 1775/2014, by which the learned court below has taken cognizance U/S 420 IPC and 138 N.I. Act is made out against the petitioner.”



3.The opposite party no. 2 had filed a complaint against the petitioner alleging non-payment of Rs. 2,08,326/- which was issued in the name of M/s Pfizer Ltd. despite notice given by the opposite party no. 2 to the petitioner.

4. Learned counsel for the petitioner submitted that the cheque was issued in the name of M/s Pfizer Ltd. which is a Company and the petitioner having filed complaint without taking authorization from the Company itself is not maintainable. It was further submitted that the petitioner has filed Darbhanga Sadar P.S. Case No. 90 of 2004 dated 25.07.2004, i.e., prior to filing of the complaint case which was done on 18.08.2004, alleging cheating against the petitioner and another person. It was submitted that the Company has no grievance against the petitioner as even after that the parties have carried out business transactions among themselves without any complaint. Learned counsel submitted that the opposite party no. 2 has also since left his job in the Company.

5. Learned A.P.P. submitted that in the present case the fact that the petitioner issued a cheque and the same was returned without being encashed has completed the offence, moreso, when despite notice, amount was not made good. Learned counsel submitted that the objection that the Company has not authorized the opposite party no. 2 to file a complaint case is also



misconceived as the complainant itself is the Company, though through its authorized signatory, i.e., opposite party no. 2. It was submitted that the same has rightly been done as the Company is the complainant and obviously the opposite party no. 2 being the authorized signatory, has filed the complaint on behalf of the Company, which is only a juristic person. Learned counsel submitted that the petitioner having filed a case against the opposite party no. 2 and another person, has no bearing on the present case as the same would be dealt with on its own merit whereas in the present case, the issue is simply with regard to the cheque being issued by the petitioner which was not encashed and even notice to pay the amount has gone unanswered.

6. Having considered the facts and circumstances of the case and submissions of the learned counsel for the parties, the Court does not find any merit in the present application. Accordingly, the same stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

