

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63894 of 2018**

Arising Out of PS. Case No.-830 Year-2017 Thana- NAWADA District- Nawada

Akhileshwar Kumar Son of Late Sadhusharan Singh, Resident of Mohalla-Purani Bazar, P.S.+ Dist- Lakhisarai, At present posted at Branch Manager State Bank of India, Agriculture Development Branch, Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ram Krishna Vishkaram S/o Late Mishri Mistri, R/o Village-Bareo, P.S.-Akbarpur, District-Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr.Sri Kumar Virendra Narayan

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT**

Date : 09-05-2019

The present petition has been filed for setting aside / for cancellation of the order dated 28.6.2018 passed by this Court in Criminal Miscellaneous No. 20770 of 2018 whereby and whereunder bail has been granted to the opposite party no. 2.

2. The brief facts of the case are that a Nawada Town P.S. Case No. 830 of 2017 was lodged by the petitioner herein for the offence punishable under Sections 402 and 406 of the Indian Penal Code wherein it has been alleged that some persons had applied for loan for a harvester with the S.B.I. Branch of Nawada in which a quotation was submitted, issued by the opposite party no. 2, showing the price of harvester to be a sum of Rs. 19 lakhs approximately. Thereafter, the loanee had mortgaged the agricultural land with the bank and then, the



Bank had transferred a sum of Rs. 14,000,00/- in the account of M/s Saroj Construction Trading, whose proprietor is the opposite party no. 2 herein, however, the opposite party no. 2 failed to deliver the harvester to the informant herein.

3. While the bail petition filed by the opposite party no. 2 was being heard by this Court on 28.06.2018, the learned counsels appearing for the petitioner herein and the opposite party no. 2 had submitted that a compromise has been entered into between the parties and the harvester has already been supplied to the petitioner herein, however, since the opposite party no. 2 is in custody, the requisite papers would be signed when the opposite party no. 2 is released from custody. In such view of the matter, this Court by an order dated 28.06.2018 had directed the opposite party no. 2 to be released on bail, subject to the conditions mentioned therein with a further direction that in case, the necessary papers are not executed by the opposite party no. 2, the informant would be free to approach this Court for cancellation of the bail of the petitioner herein.

4. The learned counsel for the petitioner has submitted that the opposite party no. 2 has not abided by the order dated 28.06.2018 passed by this Court earlier inasmuch as the opposite party no. 2 has not executed the necessary papers.



5. Per contra, the learned counsel appearing for the opposite party no. 2, by referring to the counter affidavit filed in the present case, has submitted that after the opposite party no. 2 was released on bail, he had handed over all the necessary relevant documents to the Bank as is apparent from the letter dated 20.7.2018 annexed to the counter affidavit. It is further contended that the sale letter, tax invoice and the bill have been handed over, as such, there is no disobedience of the order of this Court as far as the opposite party no. 2 is concerned.

6. At this juncture, this Court had asked a pointed query to the learned counsel appearing for the petitioner as to what specific document is required by the petitioner herein, to which the learned counsel for the opposite no. 2 could not submit any reply before this Court.

7. Having regard to the facts and circumstances of the case, there is no merit in the present petition, accordingly, the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.5.2019
Transmission Date	27.5.2019

