

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.28118 of 2020**

Arising Out of PS. Case No.-3647 Year-2014 Thana- SARAN COMPLAINT CASE District-  
Saran

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Sanny Kumar Gupta, aged about 34 years (M), S/o Amar Nath Gupta @ Amar  
Kumar Gupta @ Tunna Resident of Village-Purani Gurhatti, Police Station-  
Chapra Town, District-Saran (Chapra).

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Arbind, aged about 52 years (M), S/o Jagarnath Singh, Resident of Village-  
Double Pani Tanki, near Chapra Railway Station, Bhagwan Bazar, Police  
Station-Bhagwan Bazar, District-Saran (Chapra).

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Bashishth Narayan Mishra, Advocate |
| For the State        | : | Mr. Akbar Ali, APP                     |
| For the OP No. 2     | : | Mr. Amit Kumar Anand, Advocate         |

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

**Date : 23-03-2021**

Heard Mr. Bashishth Narayan Mishra, learned  
counsel for the petitioner; Mr. Akbar Ali, learned Additional  
Public Prosecutor (APP) for the State and Mr. Amit Kumar  
Anand, learned counsel for the opposite party no. 2-  
complainant.

2. The petitioner apprehends arrest in connection  
with Trial No. 393 of 2020 arising out of Complaint Case No.



3647 of 2014 dated 12.12.2014, instituted under Sections 420/406 of the Indian Penal Code and 138 of the Negotiable Instruments Act, 1881.

3. The allegation against the petitioner is that the four cheques issued by him in favour of the opposite party no. 2, totalling Rs.6,50,000/- were not honoured by the Andhra Bank.

4. Learned counsel for the petitioner submitted that the said cheques were given by the petitioner during the course of business to Murari Tiwari, Mukul Bharti and Bajrangi Singh but despite the petitioner having returned the money to them, the cheques were not returned to the petitioner which forced him to write to the Andhra Bank to stop payment on 19.12.2013. It was submitted that once the petitioner had already communicated to the Bank with regard to non-payment of the said cheques, the concerned persons, with *mala fide* intention, gave those cheques to the opposite party no. 2 resulting in their misuse. It was submitted that the petitioner is not liable for any presentation of the cheques and the fate of the same once he has communicated to the Bank to stop payment with regard to such cheques. It was further submitted that the present criminal case is abuse of the process of the Court as it will not decide whether any money was due from the petitioner to the opposite party no.



2, which is a separate cause of action, but the present case for non-honouring of the cheque is totally unsustainable. It was submitted that the negative role of Murari Tiwari, Mukul Bharti and Bajrangi Singh would be clear from the fact that they had lodged a case against the petitioner earlier under Section 420 of the Indian Penal Code in which the police has submitted final form not finding any merit in it and, thus, not sending the petitioner for trial.

5. Learned APP submitted that the cheques issued by the petitioner were required to be honoured under the law and the same not being done, he cannot plead innocence.

6. Learned counsel for the opposite party no. 2 submitted that the petitioner had taken money from him in lieu of which the aforesaid cheques were given to him and most importantly, the endorsement of the Bank disclosing the reason for non-honouring of the cheques is “Funds insufficient” and not because of “Payment stopped by the drawer”. Thus, it was submitted that had it been correct that the petitioner had communicated to the Bank with regard to stopping payment of the cheques in question, the reason assigned by the Bank should have been disclosed as “Payment stopped by the drawer”. Thus, it was submitted that the onus is on the petitioner to explain as



to why the Bank had not indicated “Payment stopped by the drawer” and had instead indicated “Funds insufficient”. It was further submitted that the dispute between the petitioner and his other business partners has nothing to do with the opposite party no. 2 who has a separate cause of action against the petitioner and nothing has been shown by the petitioner to deny that he had issued cheques to him.

7. At this juncture, when the Court put a direct query to learned counsel for the opposite party no. 2 as to whether the communication by the petitioner dated 19.12.2013 to the Andhra Bank asking not to make payment of the cheques in question was disputed, learned counsel was not in a position to controvert the same, though having filed counter affidavit.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 5<sup>th</sup>, Chapra, District-Saran in Trial No. 393 of 2020 arising out of Complaint Case No. 3647 of 2014, subject to the conditions laid down in



Section 438(2) of the Code of Criminal Procedure, 1973 and further that one of the bailors shall be a close relative of the petitioner. The petitioner shall cooperate with the Court. Failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the complainant to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

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

**(Ahsanuddin Amanullah, J)**

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