

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.838 of 2018**

Arising Out of PS. Case No.-232 Year-2018 Thana- PURNIA COMPLAINT CASE District-
Purnia

=====

Md. Sarwar Alam Rahi S/o Md. Badiruddin, R/o Vill.- Kohbara, P.S.-
Jalalgarh, District- Purnea.

... .. Petitioner

Versus

1. The State of Bihar
2. Ran Vijay Kumar S/o Sri Kailash Gupta, R/o Mohalla- Sarvoday Nagar, Jail
Chowk, Zila School Road Purnea, P.S.- K. Hat , District- Purnea.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr.Amit Kumar Anand, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 22-07-2022 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside of
the order dated 27.06.2018 passed by learned Judicial Magistrate, 1st
Class, Purnea in Complaint Case No. 232/2018.

On perusal of the impugned order, it appears that the
complainant-petitioner and the opposite party no. 2 were carrying
some construction work under a partnership. The allegation against
the opposite party no. 2 was that he had not provided the complete
share of the petitioner in terms of the agreement. It has been further
alleged that the opposite party no. 2 had handed over a cheque of Rs.
1,25,000/- to the petitioner on 19.07.2017 but the same stood
dishonoured on presentation due to insufficient fund.

The learned Judicial Magistrate has considered the



statement of the complainant on oath as also the statement of the two inquiry witnesses and found that it is a case of bonafide civil dispute in which attempt has been taken to move criminal law into motion.

As regards the allegation under Section 138 of the Negotiable Instrument Act, 1881, the learned Magistrate has found that the complainant had not followed the legal requirements to make out a *prima-facie* case under that section.

In course of hearing, this Court called upon the learned counsel for the petitioner to submit as to whether the petitioner had served a legal notice/demand notice within the statutory period of 30 days from the date of dishonour of cheque, learned counsel for the petitioner has informed that the demand notice was sent after about four months.

From the impugned order, it does not appear that any demand notice was exhibited in the learned court below.

In the opinion of this Court, no fault may be found with the impugned order. This application has, thus, no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

