

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9097 of 2020

Arising Out of PS. Case No.-170 Year-2012 Thana- SARAN COMPLAINT CASE District-
Saran

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Dayanand Chauhan Son of Late Mangni Chauhan Resident of Mohalla -
Kashi Bazar, P.O.- Chapra, P.S.- Bagwan Bazar, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Munna Prasad Son of Late Narsingh Prasad Resident of Mohalla - Nai
Bazar, P.O.- Chapra, P.S.- Bagwan Bazar, District- Saran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Praveen Prabhakar
For the Opposite Party/s : Mr.Awadhesh Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 18-08-2023 Heard the parties.

2. This application has been filed on behalf of the petitioner for quashing the order dated 06.12.2019 passed by learned Sessions Judge, Saran at Chhapra in connection with Criminal Revision Case No. 197 of 2019.

3. As per the prosecution case, the allegation against the petitioner is that he had given rupees two lakhs to the accused person and for the same an agreement was also made to return the money within two months. After some time when the accused gave two cheques of rupees one lakh each for payment



of the alleged amount, both cheques were dishonored due to insufficiency of fund in the account of the accused.

4. Learned counsel for the petitioner has submitted that the cognizance has been taken against the accused under Section 138 of the Negotiable Instrument Act and under Section 406 of the Indian Penal Code and after that trial has started and during trial three witnesses were examined and were cross examined also by the petitioner and have supported the prosecution case.

5. Learned counsel for the petitioner has also submitted that as per the statement of the accused recorded under Section 313 of the Code of Criminal Procedure in which the accused has admitted that he had taken rupees two lakhs from the petitioner.

6. Learned counsel for the petitioner further submits that after a delay of five years, an application was filed on behalf of accused for again recording his statement under Section 313 of the Code of Criminal Procedure and on the same the petitioner has filed a rejoinder objecting the prayer of the accused in which it is stated that the statement of the accused has already been recorded and this application is filed just to fill up the lacuna of the case.



7. Learned counsel for the petitioner has also submitted that the learned trial court was pleased to allow the application of the accused by a non speaking order dated 03.08.2019 without assigning any cogent reason and when the petitioner has approached the higher authority against the order dated 03.08.2019 then the prayer of the petitioner was also rejected without considering the facts and circumstances of the case and without assigning any cogent reason.

8. It is contended by the learned senior counsel appearing for the petitioner that the order dated 03.08.2019 is a non-speaking order and no reasons have been assigned by the trial court for allowing the petition of the accused persons which was filed after a delay of five years.

9. Learned counsel for the petitioner further submits that the trial Court could not have passed such an order after five years of the recording of the statement of the accused.

10. I have heard and considered the submission of learned counsels appearing for the parties.

11. It is an admitted fact that the impugned orders dated 03.08.2019 and 06.12.2019 are cryptic and non-speaking order by which the application of the accused has been allowed after a delay of five years.



12. In view of the above, this application is allowed.

13. Accordingly, the order dated 03.08.2019 passed by learned ACJM, XIV, Chapra in Complaint Case No. 170 of 2012 and the order dated 06.12.2019 passed by learned Sessions Judge, Saran at Chhapra in connection with Criminal Revision Case No. 197 of 2019 are hereby set aside.

14. The trial Court is directed to continue with the trial and dispose of the same at the earliest.

(Sandeep Kumar, J)

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