

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17053 of 2023

Arising Out of PS. Case No.-3701 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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M/S Maurya Motors Private Limited, through authorized representative namely, Mr. Gandesh Sah, aged about 45 years, son of Sri Natho Sah, having its office at Plot C1, Patliputra Industrial Area, Industrial Estate, P.S. Patliputra, Patna and represented through its authorized representative Mr. Ganesh Sah, son of Natho Sah.

... .. Petitioner

Versus

1. The State of Bihar
2. Rakesh Kumar Singh, Proprietor of M/S Eklavya Enterprises H. No. 05, Near Cable Town, Golmuri, Jamshedpur, District- East Singhbhum, Jharkhand.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Dayanand Singh, Advocate
For the Opposite Party/s : Ms. Dr. Indiwari Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 25-07-2023 Despite service of notice, no one appears for the opposite party no.2.

2. This application has been filed for quashing of the order dated 05.04.2021 passed by learned Sessions Judge, Patna, in Criminal Revision No.234 of 2020, by which learned court below has dismissed the Criminal Revision Application filed by the petitioner and affirmed the order dated 19.02.2020 passed by learned Judicial Magistrate, 1st Class, Patna, whereby and whereunder the learned Magistrate has dismissed the complaint case filed by the petitioner.

3. A complaint petition has been filed by the petitioner stating therein that the opposite party no.2 approached the complainant for purchasing three unit of TATA Ace Jeep



cum garbage tipper. The total order value was Rs.12,75,000/-, in which the opposite party no.2 had paid an amount of Rs.6,80,000/- and the rest amount was promised to be paid within a week from the date of supply of vehicles. In order to discharge his part liability, the opposite party no.2 gave a cheque of Rs.4,00,000/- to the complainant out of due amount of Rs.5,95,000/- but the said cheque was dishonored on account of insufficient fund. It is further alleged that when the complaint contacted the opposite party no.2, he told that due to some problem he had withdrawn the money and requested him to again deposit the said cheque and accordingly, the complainant deposited the cheque but the said cheque was again dishonored. It is also alleged that thereafter the complainant sent a legal notice to the opposite party no.2 but the opposite party no.2 did not respond the same.

4. Learned counsel for the petitioner submits that from a bare perusal of the order dated 19.02.2020 dismissing the complaint petition, it appears that the same has been passed in a mechanical manner without application of mind and without taking into account the materials on record. He further submits that the learned Magistrate has wrongly observed that after several opportunities neither complainant



appeared nor its counsel appeared on his behalf to proceed with the case.

5. Learned counsel for the petitioner further submits that the learned Magistrate has not observed the clerical error on the part of the staff of the Court as the complainant has filed his attendance on every date but the same has not been put in the records of the Court. Further, the records of the case were missing for a long time and thus it was even more difficult for the complainant to get the attendance placed in the records of the Court.

6. Learned counsel for the petitioner further submits that the complainant or his counsel were not aware about the case being listed on 07.02.2020 and thereafter on 19.02.2020 and the petitioner only came to know about the order through online verification of the case and by that time, the normal functioning of the Courts were affected due to pandemic of COVID-19 and after restoration of normalcy, the petitioner applied for certified copy of the order and accordingly filed the Revision Application but the learned Sessions Judge without appreciating the materials on record dismissed the said Revision Application.

7. Learned APP for the State has also assisted



this Court.

8. Considered the submissions of the parties. From the arguments made by learned counsel for the petitioner, it appears that there is some confusion in the maintenance of records in the Court of the learned Magistrate for which the petitioner cannot suffer.

9. Considering the entire facts and circumstances of the case and also in the interest of justice, the order dated 05.04.2021 passed by learned Sessions Judge, Patna, in Criminal Revision No.234 of 2020 as well as the order dated 19.02.2020 passed by learned Judicial Magistrate, 1st Class, Patna are hereby quashed. The petitioner will appear in the Court of learned Chief Judicial Magistrate, Patna, along with a copy of this order on 22.08.2023. Thereafter, the learned Chief Judicial Magistrate, Patna, shall proceed further in the matter and fix the date for further hearing.

10. With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

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