

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11661 of 2023

Arising Out of PS. Case No.-6912 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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Arvind Kumar Son Of Late Hira Lal Sahu Director Of M/S Eternal Commercial Pvt. Ltd., Resident Of C-17, Krishi Nagar, Patna Near Krishi Nagar Temple Ashiana Nagar, P.S.- Shastri Nagar, District – Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Kumari Seema, Adv.

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 05-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The present Cr. Misc. application has been filed under section 407 of Cr.P.C. for transfer of Complaint Case No. 6912(C) of 2021 filed on 23.11.2021, under sections 420, 406 of the I.P.C. and 138 of the N.I. Act.

Counsel for the petitioner submits that the allegation of cheating, criminal breach of trust and bouncing of cheque due to insufficient funds, are there in the Complaint Case. Counsel further submits that after filing the Complaint Case at Patna, the statement of the Complainant took place on oath but subsequently it transpires to the petitioner's counsel that the forum, where he filed the present Criminal Case, is not the

appropriate forum and this case may be maintained only where the cheque has bounced where the Bank situated at Hajipur, Vaishali. He further submits that the ingredient of Section 138 of N.I. Act is there, including the cheque, cheque returning Memo, legal notice by which demand of cheque amount has been made.

According to the petitioner, the case of bouncing of cheque is a new type of offence. As per his pleading, the cause of action for filing the case is at Hajipur, Vaishali and not before Patna, therefore, he seeks permission to transfer his case from Patna to Vaishali.

Counsel for the State submits that according to section 407 of the Cr.P.C., it is well within the power of the High Court to transfer cases and appeals and the new Court shall have the power to proceed in this matter. The said Complaint Case is at very initial stage and only statement of oath (S.A.) has taken place and inquiry witnesses are yet to be examined.

Learned counsel for the State has no objection for the same.

In this view of the matter, the present case is directed to be transferred before the District and Sessions Court, Vaishali.

The Trial Court is directed to refer this matter before the District and Sessions Judge, Patna, who shall communicate at its office level to register this Complaint Case afresh before the District and Sessions Court, Vaishali.

The District and Sessions Court, Vaishali is directed to the said Criminal Case with a new number at Civil Court, Hajipur, and refer this matter for further proceeding before appropriate judicial officer.

With the aforesaid direction, this Cr. Misc. application is hereby disposed off.

(Dr. Anshuman, J.)

Ashishsingh/-

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