

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.979 of 2017

Arising Out of PS. Case No.-2975 Year-2013 Thana- PATNA COMPLAINT CASE District-
Patna

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K. N. Tripathi @ Krishna Nand Tripathi S/o late Jagnarayan Tripathi,
Resident of Mohalla-E-348, Sector-II, Under Jagarnathpur Police Station,
District-Ranchi, Present address at-Village-Redma, P.S.-Daltenganj, District-
Palmu

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rekha Singh W/o Shri Prakash Singh, resident of Rekha House, Benind
Utsahav Hotel, New Dakbanglow Road, Near Gandhi Maidan, Police
Station, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the Respondent/s	:	Smt. Veena Kumari Jaiswal

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 28-06-2023 This application has been filed against the order
dated 14.09.2017 passed by learned S.D.J.M., Patna in
connection with Complaint Case No. 2975(C) of 2013 lodged
under Sections 420, 406, 467 and 120(B) of the Indian Penal
Code.

The prosecution case in short is that the accused
persons had cheated the complainant and when the complainant
demanded her money, initially the accused persons turned
hostile and later on negotiation took place at Mediation Centre,
New Delhi, between them where the accused persons agreed and
returned only Rs. 40,00,000/- to the complainant by way of two
post-dated cheques of Rs. 20 Lacs each. Out of two cheques, one



was honored and another was bounced back due to insufficient fund in the account.

It has been submitted by the learned counsel for the petitioner that the petitioner is innocent and has committed no offence. He has been made accused in this case under a deep rooted conspiracy. There is no direct evidence against the petitioner rather accused *Pragyanand Giri* has assured the complainant that he will manage the affairs and criminal cases pending against her and others with the help of *Mr. K.N. Tripathi, M.L.A. of Jharkhand*. Similarly in paragraph 13 and 14 of the complaint petition, the complainant herself admitted that mediation took place at Mediation Center, New Delhi, where it has been decided to return rupees 40Lakhs and for that two cheques of 20 lakhs each were handed over to the complainant.

Learned counsel for the petitioner further submits that from the entire complaint petition, statement of enquiry witnesses and statement oath, no offence is made out either of cheating or of criminal breach of trust or of Section 138 of N.I. Act against this petitioner.

It has further been submitted by the learned counsel for the petitioner that the Trial Court has misconstrued the order passed by the Sessions Court and failed to appreciate the case of



the petitioner separately and clubbed the evidence against them as a result of which separate appreciation of petitioners could not be done and after remand he has not considered the case of the petitioner.

It has been submitted by the learned A.P.P. for the State that the entire case of the petitioner has been considered by the learned Magistrate in the impugned order which is a detailed order.

Learned Magistrate has found strong *prima-facie* case against the petitioner after holding that there was sufficient ground for framing of charge under Sections 406, 420 and 120B of the I.P.C., he rejected the discharge petition.

I have considered the materials available on record. Cheque issued of Rs. 20 lacs has been dishonoured and pursuant to the dishonor of cheque, legal notices were sent to the petitioner and the accused persons. They have failed to make payment.

In these circumstances, in view of the law laid down by the Hon'ble Supreme Court in the case of *State of Bihar vs Ramesh Singh 1977 SCC (4) 39* and *R. Soundirarasu vs State of Karnataka through D.S.P. 2022 (4) PLJR (4) SC*, this application is dismissed.



The Trial Court is directed to expedite the trial of the petitioner.

Let a copy of this order be communicated to the District Judge, Patna through FAX for its compliance forthwith.

(Sandeep Kumar, J)

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