

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11091 of 2021

Arising Out of PS. Case No.-206 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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KUNDAN KUMAR Son of Late Raghunath Rai Proprietor M/s R. K. Enterprises, Resident of Village - Magardahi Ward No. 29, P.S.- Town, District - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sanjay Kumar Sharma Son of Late Kusheshwar Rai Proprietor Sharma Enterprises, Resident of Village - Chaksalem, P.S.- Patori, District - Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar

For the Opposite Party/s : Mr.A.G

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 11-04-2023 Heard the parties.

This application has been filed for quashing the order dated 03.10.2020 passed by the learned Sessions Judge, Samastipur in Cr. Revision No. 45 of 2020 whereby and whereunder cognizance has been taken under Section 138 of the Negotiable Instruments Act, 1981 against the opposite party No. 2 has been set aside.

The prosecution story in short is that on 06.02.2019, the petitioner has filed a complaint petition before the learned Chief Judicial Magistrate, Samastipur alleging therein that the O.P. No. 2 went to the house of the petitioner and demanded Rupees Two Lakhs for the purpose of business. On 27.06.2018,



the petitioner deposited Rs. 1,96,000/- in the account of the O.P. No. 2 thereafter O.P. No. 2 assured him to return the said amount within two months and after a lapse of two months when the petitioner demanded his money then O.P. No. 2 had given cheque of Rupees Two Lakhs and requested not to deposit in the bank. Upon believing on the O.P. No. 2, the petitioner did not deposit the cheque in the bank, thereafter, the petitioner again demanded his money and when the O.P. No. 2 did not pay his money then the petitioner on the last day i.e. on 22.11.2018 deposited the said cheque in his account which was returned by the bank due to insufficient amount. Thereafter, the petitioner sent Advocate notice to the O.P. No. 2 and requested to pay the same within fifteen days, but he has not returned the same.

From the perusal of the records, it appears that there is no illegality in the impugned order dated 03.10.2020 passed by the learned Sessions Judge, Samastipur. It is admitted position that the notice was sent beyond the statutory period and no court has power to condone the same.

In view of the above, this application is dismissed.

(Sandeep Kumar, J)

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