

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43582 of 2015

Arising Out of PS. Case No.-649 Year-2007 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

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Siya Ram Rai Son of Late Gokul Rai alias Gokhul Rai R/o Village Sakhwar
Kamlawari, P.S. Manigachhi, District Darbhanga

... .. Petitioner/s

Versus

1. State Of Bihar and
2. Haris Chandra Jha Son of Jaibir Jha R/o Laxmisagar, near J.P. Chowk, ward
No. 10, District Darbhanga

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : None.

For the Opposite Party/s : Mr.Anant Kumar APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 03-03-2023 No one appears on call.

This application has been filed for quashing of the order dated 03.07.2015 in Cr. Revision No. 275 of 2014 corresponding to C.R. NO. 649 of 2007 passed by Sessions Judge, Darbhanga as well as order dated 07.08.2007 passed by Judicial Magistrate, 1st Class, Darbhanga by which the learned Court below took cognizance under Section 138 of the Negotiable Instruments Act and Section 420 of the Indian Penal Code.

This Court has gone through the order of the learned Sessions Judge, Darbhanga in connection with Cr. Revision No. 275 of 2014 in which the learned Court made the following



observations:

“So far contention of the petitioner that neither complaint was filed for the offence u/s 420 IPC nor any material on the record to constitute offence u/s 420 of the IPC even then learned court below exceeded his jurisdiction and took cognizance u/s 420 IPC also, this Court find that there is specific allegation against the petitioner that he had taken Rs. 2,25,000/- from the complainant but the same has not been returned back by the petitioner and this fact has been supported by the complainant in his S.A. and enquiry witnesses examined u/s 202 Cr.P.C. and when cheque was issued by the petitioner in favour of the complainant, the same became dishonored due to insufficient fund in the account and thus, this Court is of the view that the learned Magistrate has rightly passed the impugned order as prima facie case u/s 138 N.I. Act and 420 IPC exists against the petitioner on the face of the record and thus, this Court find no illegality in the impugned order. It further appears to this Court that impugned order was passed on 07.08.2007 and after lapse of six years, the petitioner has come before this Court for setting aside the same, hence, instant revision application is time barred and only on this score, instant revision application is fit to be dismissed and thus, taking into consideration of these facts, the same stands dismissed at the



admission stage itself.”

In view of the clear stand of the learned Sessions Judge, another view is not required.

However, since no one has appeared on behalf of the petitioner, the application is dismissed for want of non-prosecution with liberty to raise all the points before the Trial Court at an appropriate stage.

(Rajiv Roy, J)

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