

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25949 of 2021

Arising Out of PS. Case No.-924 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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Ganesh Kumar Das Son Of Late Hari Das R/O Village- Kashipur, Ward No. 07, P.S. And District- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Santosh Kumar Son Of Shailendra Kumar Karn R/O Village Mushapur, Ward No. 4, P.S. Samastipur Mufassil, District- Samastipur

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Vandana Singh, Advocate

Ms. Sadhna Suman, Advocate

For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 29-03-2024 Heard the parties.

2. This application has been filed for quashing the order dated 21.12.2020 passed in Criminal Revision No. 415 of 2020 arising out of Complaint Case No. 924 of 2018 whereby order taking cognizance under Section 38 of Negotiable Instruments Act passed by learned Judicial Magistrate, 1st Class, Samastipur dated 11.09.2018 has been set aside by the learned Sessions Judge, Samastipur.

3. As per the prosecution case, allegation is of dishonour of cheque issued by the petitioner in favour of the opposite party No. 2. Soon after the opposite party No. 2 got the complaint case registered, the petitioner was examined on S.A. on 03.08.2018 and two witnesses were also examined under inquiry on 10.08.2018 and 20.08.2018 respectively. After



perusal of the complaint case as well as the witnesses, learned Judicial Magistrate, 1st Class, Samastipur took cognizance of offence under Sections 420, 467, 468, 323, 504/34 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act. After the aforesaid criminal revision application, petitioner was noticed and after hearing the parties, learned Sessions Judge, Samastipur allowed the said application after setting aside order dated 11.09.2018 passed by learned Judicial Magistrate, 1st Class, Samastipur vide order dated 21.12.2020. Being aggrieved and dissatisfied by the order dated 21.12.2020, the petitioner preferred this application under Section 482 Cr.P.C.

4. Learned counsel for the petitioner submits that the learned court below has failed to appreciate the materials available on record and passed the impugned order dated 21.12.2020 passed in Criminal Revision No. 415 of 2020 in a mechanical manner on the ground that demand notice was not served upon the opposite party No. 2 within stipulated period of 30 days. Thus, learned court below has committed serious error while passing the impugned order and as such, no offence is made out against the petitioner.

5. Learned A.P.P. for the State has supported the impugned order dated 21.12.2020 and submitted that after



considering the entire materials available on record, the impugned order has been passed. It cannot be said that no prima facie case is made out against the petitioner and as such, no interference is required by this Court at this stage.

6. Heard the parties, perused the pleadings of the complaint and the orders of the learned court below. I am satisfied that the impugned order passed by the criminal revision court is a well discussed and reasoned order and does not warrant any interference by this Court. In the present case, complainant has issued legal notice on petitioner on 17.04.2018, though the bank transacted the cheque with report on 07.03.2018 which is beyond the prescribed limit of 30 days and the same has been issued after much delay of 10 days and as such, the complaint is not maintainable.

7. I do not find any error or fallacy in the impugned order dated 21.12.2020 passed in Criminal Revision No. 415 of 2020 arising out of Complaint Case No. 924 of 2018 passed by the learned Sessions Judge, Samastipur.

8. This quashing application is, according, dismissed.

(Prabhat Kumar Singh, J)

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