

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39474 of 2017

Arising Out of PS. Case No.-2479 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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Dr. Shailesh Kumar Sinha Son of late B.P. Sinha Resident of Mohalla Quarter
No. 40, M.I.G.H., Kankarbagh Colony, P.S. Kankarbagh, district- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Dr. Surendra Prasad Sinha Son of late Raghubansh Lal Resident of A-15, 6-D, Sadhanapuri, P.S. Gardanibagh, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Ajay Kumar Thakur, Adv
For the Opposite Party/s :	Mr. Bharat Bhushan, APP
	Mr. A.B Ojha, Sr. Adv

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 09-01-2024 1. Heard learned counsel for the petitioner and
learned APP.

2. Learned senior counsel, Mr. A.B Ojha, appears and
submits that he was appearing on behalf of OP No. 2, but during
pendency of the quashing application, he left for his heavenly
abode. He informed his family members about the pendency of
the present quashing application, but thereafter none contacted
him.

3. The learned counsel for the petitioner submits that
the present quashing application has been filed seeking quashing
of the order dated 6-3-2016 passed by the learned Judicial
Magistrate, First Class, Patna in Complaint Case No. 2479(C) of



2015 whereby cognizance of offence under Sections 403, 323 and 504 of the IPC has been taken.

4. The learned counsel next submits that from perusal of the allegation as alleged in the complaint, it would manifest that the complaint was filed at a very belated stage casting aspersion on the case of the prosecution itself. It is next submitted that the complainant (OP No. 2) since deceased has instituted the aforesaid complaint case alleging that he retired as Chief Medical Superintendent from Railway Hospital, Danapur and after retirement, he was doing private practice. The petitioner is also a doctor and had worked with the complainant on several occasions and thus induced him to supply to him some medical equipment on account of which the complainant paid an amount of Rs. 7,50,000/- in between 27-6-1999 to 22-1-2000, but the petitioner did not supply the medical equipment, and when confronted, it is alleged that cheque of Rs. 2,00,000/- vide Cheque No. 886774 dated 31-3-2000 and another cheque bearing Cheque No. 019325 dated 6-5-2000 of Rs. 3,50,000/- were given, but when the cheques were presented for encashment, the same bounced, on which the complainant sent a legal notice dated 8-1-2015 and 20-6-2015, but the same was not replied and when he approached the petitioner, he was



abused.

5. The learned counsel for the petitioner raises a short submission and submits that from bare perusal of the allegation as alleged in the complaint, it would manifest that the cheques bounced in the year 2000 and 2003 respectively and the notices with regard to bouncing of cheques were sent on 8-1-2015 and 20-6-2015, that is, much after the period of limitation was over in terms of Section 138 of the NI Act.

6. The learned counsel next submits that the petitioner came to be implicated by the OP No. 2 on a false allegation that he had taken Rs. 7,50,000/- in the name of supplying equipment and the same was not supplied. It is next submitted that the petitioner was known to OP No. 2. It is also submitted that the petitioner was HOD of Urology Department in the PMCH as such he requested one Sinha Laboratories to give loan to the OP No. 2, in lieu whereof the two aforesaid cheques were issued by the said companies, which bounced. Since the OP No. 2 was aware that the cheques were issued not for any consideration, as such no legal notice was sent to the said company, but later it appears that under wrong advice the present complaint case came to be instituted.

7. It is also submitted that the petitioner, after



retirement as HOD of Urology Department in the PMCH, never indulged in supply of any medical equipment to any of the doctors. The learned counsel further submits that allegation under Sections 323 and 504 of the IPC is ornament.

8. The learned APP opposes the quashing application.

9. Considering the submission made by the learned counsel for the petitioner and the fact that the complaint was filed at a very belated stage, which casts an aspersion on the case of the prosecution, as such the order dated dated 6-3-2016 passed by the learned Judicial Magistrate, First Class, Patna in Complaint Case No. 2479(C) of 2015 whereby cognizance of offence under Sections 403, 323 and 504 of the IPC has been taken, is hereby quashed.

(Satyavrat Verma, J)

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