

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74084 of 2023

Arising Out of PS. Case No.-3122 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

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Satyam Shanu Son Of Sunil Kumar Shukla Resident Of Bawan Bigha Road
No.1, Akhra Ghat, District - Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sanajy Kumar Son Of Late Man Mohan Prasad Resident Of Shop No.2,
Ground Floor, Nutan Mahalaxmi Complex, Gandhi Maidan, Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shashank Shekhar

For the Opposite Party/s : Ms.Anita Kumari

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 09-05-2024 1. Heard learned counsel for the petitioner, learned
A.P.P. for the State along with learned counsel appearing on
behalf of the OP No. 2.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 420 and
406 of the Indian Penal Code read with Section 138 of the
Negotiable Instrument Act (for short 'NI Act').

3. The learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and has been falsely
implicated in the instant case by the complainant. The learned
counsel further submits that a purely civil dispute has been
given a criminal colour. It is next submitted that in sum and



substance, the complainant alleges that petitioner had purchased certain solar lights for which he had issued three cheques of Rs. 5 lakhs, 5 lakhs and 7 lakhs, but the cheques, on presentation for encashment, bounced, thereafter legal notice was sent and the same was duly replied but the petitioner did not accept his liability as such the instant complaint case was instituted based on which cognizance came to be taken under Sections 406 and 420 of the IPC read with Section 138 of the NI Act.

4. The learned counsel for the petitioner further submits that it absolutely does not stand to reason that in the nature of allegation as alleged, how offence under Section 406 and 420 is made out. It is next submitted that even presuming what has been alleged is true without admitting then the case of the complaint is that certain solar lights were supplied by the complainant to the petitioner for which the petitioner had issued cheques and the same on presentation for encashment bounced. It is next submitted that if the cheques issued bounced in that event the petitioner is liable to be proceeded/prosecuted under Section 138 of the NI Act and will face the consequences as envisaged under the provisions of Section 138 of the NI Act, provided the complainant is able to prove that the cheques issued were towards consideration, when it is the case of the



petitioner that the cheques were given to the complainant by way of security and the same was misused. It is next submitted that no doubt petitioner had purchased certain solar lights, including solar equipment from the complainant, but then all dues stands paid. It is also submitted that had the petitioner any intention to cheat the complainant in that event he would not have issued the cheques after purchasing the solar lamps and equipment, but then it is asserted and submitted that entire payment stands paid and the cheques given by way of security, have been misused as such the cheques presented for encashment were not for any consideration.

5. Learned APP along with learned counsel for the OP No. 2 are not able to rebut the submission of the learned counsel of the petitioner that offence under Section 138 of the NI Act is bailable and the case under Section 138 of the NI Act read with Sections 406 and 420 IPC has been filed which is pending adjudication.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Complaint Case No. 3122(c) of 2020, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, the learned trial court is directed to ensure that the trial is concluded expeditiously and preferably within a period of 18 months from the date of receipt/production of a copy of this order without giving undue adjournments to either sides.

(Satyavrat Verma, J)

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