

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3296 of 2024

Arising Out of PS. Case No.-5 Year-2020 Thana- RAJAPAKAR District- Vaishali

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Keshri Verma @ Kiran Verma @ Keshri Kumari Verma @ Keshri Kumar Verma, Son of Late Raghuvansh Prasad Resident of Village- Rajapakar Chakrajo , P.S- Rajapakar, Dist- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajdev Ray, Son of Late Jagdish Ray Resident of village- Baikunthpur, P.S Rajapakar, Dist- Vaishali

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Suryakant Kumar
For the Opposite Party/s :		Mr.Raj Kishor Singh
		Mr.Krishna Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 20-04-2024 1. Heard learned counsel for the petitioner, learned senior counsel appearing on behalf of the informant and learned APP for the State.

2. The petitioner seeks bail in a case registered for the offences punishable under Sections 406, 420 and 34 of the Indian Penal Code and Section 138 of the N. I. Act.

3. The learned counsel for the petitioner, at the outset, submits that an F.I.R. is not maintainable with respect to an offence relating to bouncing of cheque and for the said proposition relies on an order of this Court in the case of **Hemant Kumar Das and another vs. the State of Bihar reported in 2018(4) P.L.J.R. 725.**



4. It is further submitted that even the cheque was not issued by the petitioner, but still, he has been implicated in the instant case with an allegation that the petitioner in connivance with his family members including his son duped the informant of his Rs.25 Lacs as the informant alleges that the accused persons including the petitioner made him meet the owner of the land, who intended to sell his land. Thereafter, the informant paid an amount of Rs.25 Lacs to the accused persons including the petitioner for purchasing the land, but the sale deed was not executed and when the informant demanded his money back, a cheque was issued by the son of the petitioner, which on presentation for encashment bounced.

5. The learned counsel for the petitioner submits that what is not in dispute rather stands admitted is that the cheque was not issued by the petitioner. It is further submitted that the informant alleges that he paid an amount of Rs.25 Lacs to the petitioner in presence of the family members, even presuming what has been alleged is true without admitting, then the son of the petitioner had issued a cheque and if the cheque bounced on presentation for encashment, then the remedy was to file a complaint case before a Court of competent jurisdiction where the petitioner would have appeared and either would have



accepted his liability or would have rebutted the claim of the informant, but then, instituting an F.I.R., when the law is well settled that an F.I.R. is not maintainable in cases relating to bouncing of cheque, this in itself demonstrates that the F.I.R. came to be instituted only with a view to coerce the petitioner into submission, so that under fear of criminal Court, he parts with the money, which the informant alleges that he had given in absence of any adjudication by a Court of competent jurisdiction. It is further reiterated and submitted that if the cheque was issued, then the proper remedy for the informant was to approach the Court of Competent jurisdiction for getting his claim adjudicated. It is also submitted that it does not appear probable that the petitioner would have paid Rs.25 Lacs in cash, which is a huge amount of money. It is further submitted that petitioner is in custody since 04.08.2023 and is a person with clean antecedent.

6. Learned A.P.P. along with learned senior counsel appearing on behalf of the informant opposes the bail application, but then, are not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner that with respect to an offence relating to bouncing of cheque, an F.I.R. is not maintainable.



7. Considering the submission made by the learned counsel appearing on behalf of the petitioner and taking into consideration the period of custody, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Kushan Kunal, learned Judicial Magistrate, 1st Class, Vaishali at Hajipur in connection with Rajapakar P. S. Case No.05 of 2020.

8. The application stands allowed.

(Satyavrat Verma, J)

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