

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77003 of 2019

Arising Out of PS. Case No.-685 Year-2018 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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Mukesh Kumar Son Of Sri Lakshmi Narayan Poddar Presently Residing At
Ie-48, Bastu Bihar, Resident Of Pachamba, Police Station-Singhual, District-
Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranjeet Kumar Son of Rajendra Prasad Proprietor, M/s Ambika Trading
Malgodam Road, Police Station-Khagaria, District-Khagaria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Ram Pravesh Nath Tiwari
For the Opposite Party/s :		Mr.Arun Kumar Singh
For the Opposite Party No.3:		Mr. Shivendra Kr Singh
		Mr. Ranjeet Patel

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 25-07-2024

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel for the informant.

2. The present application has been preferred for
quashing the order dated 06.03.2019 passed in Complaint Case
No 685C of 2018 by the learned Chief Judicial Magistrate,
Khagaria whereby cognizance for the offence punishable under
Section 406 of Indian Penal Code and Section 138 of the N.I.
Act. has been taken against the petitioner.

3. The prosecution case as per complaint case is that
the complainant is proprietor of Ambika Trading and there was



a business transaction with the petitioner with respect to maize. It is alleged that on 05.08.2017, on various dates, the complainant gave maize to the petitioner's firm, thus the complainant gave 1846 quintals of maize worth Rs. 23,99,800/-. Complainant often used to demand price aforesaid but the petitioner avoided the same. He used to say that he has not received money from his purchasers. When persistent demands were made, the petitioner gave a cheque bearing Cheque No. 001817 to the tune of Rs. 23,99,800/-. The complainant accordingly deposited the said cheque in his Allahabad Bank account but the same was dishonoured due to insufficient fund. Accordingly, the petitioner as alleged has committed offence under Section 138 of N.I. Act. When complaint was made against the petitioner, he abused the complainant and his staffs.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is innocent and he has committed no offence. He denies the whole allegations levelled against him. The complainant has misused the provisions of the law and the process of Court to blackmail for illegal gain and to put pressure. It is further submitted from para-9 of this petition that since N.I. Act is a special Act



having penal provisions under Section 138 of N.I. Act, no offence under Section 406 of the Indian Penal Code is made out. It is also submitted that the present case is an absolute misuse and abuse of due process of law and he has been dragged unnecessarily in this case.

5. In contra, learned A.P.P. duly assisted by learned counsel appearing on behalf of O.P. No. 2 while opposing the prayer of application submitted that the impugned order is based on cogent and consistent evidence. O.P. No.2 supplied maize to the petitioner and in return, he gave a cheque to O.P. No.2 which was bounced due to insufficient fund. So, it is a case of dishonoring of cheque. In this way, petitioner committed offence with the O.P. No.2. Therefore, no interference is required with the impugned order and the same is fit and proper. This Cr. Misc. Application is liable to be dismissed.

6. After considering the facts and circumstances of this case as well as the evidence which are available on record, I find no irregularities in the impugned order dated 06.03.2019 passed by learned Chief Judicial Magistrate, Khagaria in Complaint Case No. 685C of 2018. The impugned order is delivered on the basis of cogent and consistent evidence. This



Court does not find any infirmity in the order impugned. I find no reason to disbelieve the order passed by the trial court.

7. Accordingly, the instant Criminal Miscellaneous Application is hereby dismissed.

8. Petitioner is directed to raise all his submissions at appropriate stage during trial.

(Sunil Kumar Panwar, J)

Shubham/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2024.
Transmission Date	29.07.2024.

