

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46654 of 2016

Arising Out of PS. Case No.-269 Year-2014 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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Ranjeet Kumar, S/o Late Devnath Ram, R/o Mohalla- Mahajantoli Sasaram
Town, P.S.- Sasaram, Dist- Rohtas.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rishikesh Upadhyay, S/o Gorakh Upadhyay, R/o New Area Jora Mandir
Dihari, P.S.- Dihri, District- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rewti Kant Raman, Advocate
For the O.P. No.2	:	Mrs. Ritika Rani, Advocate
		Mr. Vardaan Mangalam, Advocate
For the State	:	Mr. Sri Ram Sevak Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 06-02-2025 Heard Mr. Rewti Kant Raman, learned counsel for the

petitioner, Mrs. Ritika Rani, learned counsel for the O.P. No.2

and Mr. Sri Ram Sevak Choudhary, learned APP for the State.

2. The instant criminal miscellaneous petition has
been filed under Section 482 of the Code of Criminal Procedure
(in short 'Cr.P.C.') with a prayer to quash the order dated
18.05.2016 passed by learned 3rd Additional District and
Sessions Judge, Rohtas, in Cr. Revision No. 343 of 2014, filed
by the O.P. No.2 and the same was allowed by the order
impugned and the order of cognizance for the offences under



Sections 406 and 420 of the Indian Penal Code (in short 'IPC') and Section 138 of the Negotiable Instrument Act (in short N.I. Act') passed by the learned Chief Judicial Magistrate, Rohtas at Sasaram, in Complaint Case No. 269(C) of 2014 was set aside by the same order.

3. Heard both the sides and perused the order impugned. It is an admitted position that a cheque was issued by the O.P. No. 2 in favour of the present petitioner in respect of the O.P. No.2's liability of Rs. 3,25,000/- and the same was dishonored by the Bank concerned and considering this aspect as well as in view of the nature of allegation relating to cheating and criminal breach of trust, the learned Magistrate took cognizance of the offences punishable under Sections 406 and 420 of IPC and Section 138 of the N.I. Act, after examining the complainant as well as his witnesses. The said order was challenged by the O.P. No.2 before the revisional court with taking the plea that though initially a cheque issued by the O.P. No.2 for the payment of Rs. 3,25,000/- was dishonored but thereafter, the O.P. paid the said amount in cash regarding which a receipt was also issued by the petitioner/complainant. The said receipt was produced by the O.P. No.2 before the revisional court and merely believing the receipt, the learned revisional



court deemed the complainant's allegation to be false and malicious which was not proper as the impugned order does not show that the petitioner accepted the truthfulness of the said receipt and further, the factum of payment and issuance of receipt was a subject matter of the trial and the same can only be judged after taking sufficient evidences from both the sides. Hence, the order impugned is completely bad in the eye of law, so, it is set aside and the instant petition stands allowed.

4. The learned cognizance taking court is directed to proceed with the alleged offences of which cognizance has been taken from the stage of cognizance against the O.P. No. 2.

(Shailendra Singh, J)

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