

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5001 of 2019

Arising Out of PS. Case No.-29777 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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Rajeev Kumar, S/o Basudeo Rai, Resident of Mohalla- New Jakkanpur, B.K.
Datta Lane, P.S.- Jakkanpur, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. Ram Jee Tiwari, son of Late Gauri Shankar Tiwari, resident of Village, P.O.
and P.S.- Murar, District- Buxar, At Present H/O Sri Vidyanand Tiwari,
Mohalla- Yarpur Jogiatali, P.S.- Gardanibagh, District- Patna-800001

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Sunil Kumar Singh No.10, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Complainant	:	Mr. Jeetendra Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 14-07-2026

Heard learned counsel appearing for the petitioner,
learned APP for the State duly assisted by learned counsel
appearing for complainant/O.P. No.2.

2. The present petition has been filed on behalf of the
petitioner for quashing of the order dated 12.05.2015 passed by
the learned Judicial Magistrate-1st Class, Patna, whereby and
whereunder the learned Jurisdictional Magistrate has taken
cognizance against the petitioner for the offences punishable
under Sections 406, 420 and 352 of the Indian Penal Code (for



short 'I.P.C.') as well as Section 138 of the Negotiable Instruments Act (for short 'N.I. Act').

3. The prosecution case, as per complainant/O.P. No.2 is that he had approached to the petitioner for purchase of a residential plot, as he works as a broker and they had signed an agreement on 09.04.2012 purchase and sell of a piece of land admeasuring 1 katha, 06 dhur bearing Plot No.493, Khata No.8, Tauji No.5074 situated at village-Bishunpur Pakri, P.S.-Beur, Patna for a consideration amount of Rs.16,50,000/- (Sixteen lacs fifty thousand) out of which, a sum of Rs.5,51,000/- was paid as advance money. It is further alleged in the agreement that rest of the amount was to be paid within a period of four months and thereafter, sale deed was to be executed. It is further stated that a sum of Rs.15,00,000/- were paid to the petitioner but, the said land was not transferred to him, thereafter, the complainant started demanding his money back but the petitioner did not return the aforesaid amount. In the meanwhile, the complainant/O.P. No.2 came to know that the said land belongs to Ganga Rai, who had given power of attorney to the one Sheonath Rai and not to the petitioner. It is further alleged that the petitioner had given three cheques bearing Nos. 354037, 354036 and 354038 dated 10.04.2013, 03.05.2014 and



15.05.2014 respectively drawn on S.B.I. A/c No.20013024655 but, these three cheques were not presented in the bank on the request of petitioner. The petitioner had again given three cheques of HDFC Bank bearing A/c No.02351530011143 and out of which, only one cheque bearing no.254704 dated 16.06.2014 was deposited in the bank, which was bounced back on 19.06.2014 and then, a Complaint Case No.28589 of 2014 was filed in the Court of Chief Judicial Magistrate, Patna, which is pending. Thereafter, both two cheques bearing No.254705 dated 26.08.2014 and 254707 dated 10.07.2014 had also bounced back due to insufficiency of fund. It was further alleged that in the morning of 08.10.2014, the petitioner had called the complainant on his home with a promise to pay the said amount but when the complainant along with his sons had gone to petitioner's house, all cheques were snatched and nothing had paid.

4. The sole submission raised by learned counsel for the petitioner that for same cause of action, a complaint case was already filed, which was registered as Complaint Case No.28589 of 2014 on 16.08.2014 before learned Chief Judicial Magistrate, Patna, where for dishonouring of the cheques as issued by this petitioner from his A/c No. 20013024995 bearing



Cheque Nos. 354037, 354036, 354038 were issued on 10.04.2013, 05.03.2014 and 15.05.2014 respectively, which upon presentation by the complainant before his bank were dishonoured. It is submitted that for same set of cheques, the present subsequent complaint case bearing No.29777 of 2014 was filed by the complainant before the learned Chief Judicial Magistrate, Patna. In support of his submission, learned counsel for the petitioner has relied upon legal report of Hon'ble Supreme Court as available through **Subrata Choudhary alias Santosh Choudhary and Ors. vs. State of Assam and Another [2014 SCC OnLine SC 3126]**.

5. The aforesaid factual submissions could not be disputed by Mr. Jeetendra Narayan, learned counsel appearing for complainant/O.P. No.2

6. In view of aforesaid, as it appears that the Complaint Case No.29777 of 2014, which was registered subsequent to the first complaint bearing No.28589 of 20214 for same cause of action is bad in eyes of law.

7. Accordingly, the order dated 12.05.2015 passed by the learned Judicial Magistrate-1st Class, Patna in connection with Complaint Case No.29777 (C) of 2014 *qua* petitioner is hereby quashed and set aside.



8. The present petition stands allowed.
9. Let a copy of this order be communicated to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2026
Transmission Date	15.07.2026

