

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11743 of 2020**

Arising Out of PS. Case No.-2860 Year-2017 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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MUKESH KUMAR @ MUKESH KUMAR SINGH Son of Late Ram Chhablia Singh Resident of Village- Lakshminagar, Football Ground, P.O.- Telco, P.S.- Telco Jameshedpur, District- East Singhbhum, Jharkhand, Presently resides at Chaklatif, P.O.- Panapur Dharampur, P.S.- Bidupur, District- Vaishali.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Nitesh Kumar Singh Son of Late Awadhesh Prasad Singh Resident of Village- Erazi Kanchanpur, P.O.- Panapur Dharampur, P.S.- Bidupur, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan, Advocate
For the Opposite Party/s : Mr.Abhay Kumar Roy, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 27-01-2026 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present application has been filed for quashing the order dated 14.06.2018 passed by learned Additional Chief Judicial Magistrate, XII, Vaishali in Complaint Case No. 2860/2017 by which learned Additional Chief Judicial Magistrate took cognizance for the offence under Section 138 of the Negotiable Instrument Act against this petitioner, pending in the Court of Additional Chief Judicial Magistrate-16, Vaishali at Hajipur.



3. As per the prosecution case, the complainant wanted to purchase a plot, and Mukesh Kumar offered one at Rs. 3,50,000 per Katha. The deal was finalized with Rs. 2,75,000 paid as advance, with Rs. 75,000 to be paid at registry within one month. The accused repeatedly postponed the registry. Upon inquiry, the complainant discovered the land was already sold to others on 6.9.14. At a panchayat, the accused confessed and gave a cheque for Rs. 2,75,000 (cheque no. 61294 dated 11.9.17), which was subsequently dishonoured on 16.9.17 due to insufficient funds.

4. Learned counsel for the petitioner submits that petitioner is the signatory of the cheque and the cheque has bounced due to insufficient funds in the account. The petitioner has raised a number of grounds saying that it is the O.P. No. 2 who is a habitual litigant and therefore, this case should be quashed. He has further submitted that there are some interpolation/ corrections in the cheques and therefore, the cognizance has been taken improperly.

5. In my opinion, if cheque has bounced because of instructions to stop payment issued by the petitioner/ drawer, an offence under Section 138 N.I. Act is made out and hence, this application stands dismissed and the learned court below is



directed to proceed in the matter and the petitioner is at liberty to raise all grounds before the learned court below in accordance with law. The case must be disposed of within six weeks.

6. Let a copy of this order be communicated through FAX or e-mail to the Principal District Judge, Vaishali for its compliance.

(Sandeep Kumar, J)

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