

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16980 of 2022

Arising Out of PS. Case No.-1566 Year-2020 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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MANOJ TIWARI @ MANOJ KUMAR TIWARI Son of Madan Tiwari
Resident of Siswa, P.O. Sirni Bazar, P.S. - Malahi, District - East Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Ashok Kumar Singh Son of Late Ramratan Rai Proprietor, Shrimangal Motors (Mahindra Tractor Agency) Balua Tal, P.S. - Motihari Town, District - East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Ranjan
For the Opposite Party/s : Mr.Choubey Jawahar

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CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

7 16-03-2026 Heard the parties.

2. This application is being filed for quashing of order dated 14.12.2020 passed by learned Chief Judicial Magistrate, East Champaran (Motihari) in Complaint Case No. 1566 (C) of 2020 whereby the learned Court below has taken cognizance of offence under Section 138 of the N.I. Act and issued processes against the petitioner.

3. The complainant lodged the instant complaint with the allegation that he and the accused were known to each other for the last 4-5 years and they became friends.

4. The complainant gave Rs.1,63,000/- to the accused and after some time when the money was demanded the accused



gave a Cheque No.330080 dated 28.06.2020 drawn on the State Bank of India for the amount of Rs.1,63,000/-. The complaint also states that the bank informed about the insufficiency of fund in the bank on 23.09.2020. The complaint was filed on 09.12.2020 and straightway cognizance seems to have been taken on 14.12.2020. The learned C.J.M. apparently did not have time or capacity to look at the Cheque No.330080 or the cheque return memo. The cheque was issued on 28.01.2020 which was presented to the Bank and return memo shows that the date is 06.02.2020. This could be construed as some type of typographical error but in view of the fact that from the actual date the complaint was woefully delayed and from 15.03.2020, the order of Hon'ble Supreme Court and Patna High Court was there condoning the delay in filing the application due to corona pandemic. It is apparent that wrong dates have been given deliberately in order to bring the case within the exemption allowed by the Hon'ble Supreme Court and Hon'ble High Court during the period of Corona. Moreover while the complainant states that the accused and complainant were on friendly terms, the legal notice which has been brought on record would show that the same was for payment of dues amount of purchase of tractor. Such a reckless approach in filing the case and such a reckless



approach in dealing with the case by the learned C.J.M. is deprecated. The complainant had not gone to the Court with clean hand and the Court for reasons best known to it did not have the time or capacity to look into the basic material that should have been looked into.

5. Accordingly, this petition is allowed and the order dated 14.12.2020 passed by learned Chief Judicial Magistrate, East Champaran, Motihari is quashed.

(Ansul, J)

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