

Piyush Mishra Vs. the State of Bihar and anr

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Court : Patna

Decided On : Aug-21-2013

Appellant : Piyush Mishra

Respondent : The State of Bihar and anr

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Criminal Miscellaneous
No.32647 of 2007

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Piyush Mishra son of Chaturbhuj Narayan Mishra, Area Officer Finance & Recovery, Mahindra and Mahindra Financial Services Ltd, Bhagalpur resident of Central Jail Road Tilkamanjhi, P.S. Tilkamanjhi, District Bhagalpur

Petitioner/s Versus 1. The State of Bihar 2. Chandan Kumar son of Arun Prasad Singh, resident of Karyanand Nagar, Lakhisarai, P.S. Lakhisarai, District Lakhisarai Opposite Party/s

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Appearance : For the Petitioner/s : Ms. Sushmita Mishra, Advocate For the State : Dr. Indiwar Kumari, A.P.P. For Opposite Party No.2 : None

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH ORAL

JUDGMENT

Date:

21. 08-2013 No one appears on behalf of the Opposite Party No.2. The Petitioner seeks quashing of the entire proceeding including the order of cognizance dated 25.7.2006 passed by the A.C.J.M., Lakhisarai in C.A. No.156C of 2006. The case of the Complainant is that he had taken loan from a finance company, of which the Petitioner was an Area Officer for the purchase of a vehicle. He alleged that even though he had paid the instalments in cash to the Petitioner from time to time, the relevant entries were not made and hence the present Complaint. The submission of the Petitioner is that since loan is given by a written agreement between the parties, there is no question of non- mentioning of the instalments paid by the loanee. In fact the Petitioner Patna High Court Cr.Misc. No.32647 of 2007 dt.21-08-2013 2 had refused to accept the instalments by cash after which the Complainant sent the money through Bank draft. As and when the money was deposited with the company it was entered in the records and hence the allegations are apparently cooked up for the reason that he failed to pay the entire dues amount to the company and by filing this complaint petition he is trying to escape the liability of repayment. Having considered the nature of allegations, this Court is of the view that the present prosecution is a gross abuse of the process of the Court and deserves to be set aside. Hence, the application is allowed and the entire proceeding including the order dated 25.7.2006 passed by the A.C.J.M., Lakhisarai in C.A. No.156C of 2006 is hereby set aside. (Anjana Prakash, J) NAFR/Narendra/-

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