# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Criminal Miscellaneous No.1415 of 2010**

Arising Out of PS.Case No. 2340 Year- 2004 Thana -null District- PATNA

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Amitava Bhattacharya son of late Shri Amalendra Prasad Bhattacharya having registered office at 41A Shyed Mair Ali Avenue, 2nd floor, Kolkata 700019 at present 22 Lake Place, Kolkata-29

.... .... Petitioner/s

Versus

1. The State of Bihar
2. Anil Kumar Thakur son of Shri Debendra Thakur, Proprietor of M/s Tirupati Marketing Company, West of Montessori School, Boring road, Patna 800001

.... .... Opposite Party/s

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**Appearance :**
For the Petitioner/s : Smt. M. Chatterjee, Advocate
For the Opposite Party/s : Mr. Rajesh Kumar, APP

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH**
ORAL JUDGMENT
**Date: 01-09-2015**

No one appears on behalf of the Opposite Party No.2.

The Petitioner seeks quashing of the order of cognizance dated 5.2.2005 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2340C of 2004.

The case of the Complainant is that he was the owner of Tirupati Marketing Company and in course of business he entered into an agreement with the accused persons and paid security amount to the Petitioner. However, the business did not flourish and hence he started to ask for return of the security amount with interest which they did not do. Subsequently the accused persons paid only part of the security amount.

It has been submitted on behalf of the Petitioner that

even conceding the allegations in the Complaint Petition no criminal offence is made out inasmuch as there was business transaction between the parties and any lapse which may have occurred was in course of such financial transaction. In such circumstances, the Petitioner seeks discharge.

Having considered the facts of the case, I am inclined to agree with the submissions so raised on behalf of the Petitioner. Hence, the application is allowed and the proceeding including the order of cognizance dated 5.2.2005 passed by the Judicial Magistrate, 1st class, Patna in Complaint case No.2340C of 2004 is hereby set aside.

**(Anjana Prakash, J)**

Narendra/-

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