

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41961 of 2012

Arising Out of PS.Case No. -2584 Year- 2010 Thana -null District- PATNA

India Bulls Financial Services Ltd. through Sharad Chandra Tripathi, Manager,
448-451, India Bull House, Udyog Vihar, Phase-V, Gurgaon, Haryana.

.... Petitioner

Versus

1. The State of Bihar.
2. Diwakar Prasad, Son of B.N. Yadav, resident of House No. 121, Ram Krishna Path, North Nehru Nagar, Police Station-Patliputra, District-Patna

.... Opposite Parties

Appearance :

For the Petitioner/s : Mr. Alok Kumar Shahi, Advocate

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-04-2015

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 27.01.2011 passed by the learned Judicial Magistrate-1st Class, Patna in Complaint Case No. 2584(C)/2010 whereby the learned Judicial Magistrate finding a prima facie case to be made out under section 406 of the Indian Penal Code has summoned the petitioner in exercise of powers conferred under section 204 of the Code of Criminal Procedure.

Learned counsel for the petitioner has contended that the dispute has amicably been settled between the parties and a compromise petition has also been filed in the aforesaid complaint

case.

In my considered opinion, this application under Section 482 of the Code of Criminal Procedure is thoroughly misconceived. The offence punishable under Section 406 of the Indian Penal Code is compoundable one with the permission of the court before which any prosecution for such offence is pending by the owner of the property in respect of which the breach of trust has been committed.

I fail to understand as to why despite there being statutory remedy for compounding of the offence under section 320 of the Code of Criminal Procedure, the petitioner has chosen to file this application under Section 482 of the Code of Criminal Procedure.

In the light of the observations made, hereinabove, the application is disposed of with liberty to the petitioner to approach the learned Magistrate before whom the matter is pending for compounding of the offence.

Sanjeet/Md.S

(Ashwani Kumar Singh, J.)

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