

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.18006 of 2016**

Arising Out of PS.Case No. -203 Year- 2014 Thana -RAMGARH District- BHABHUA (KAIMUR)

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Satish Kumar Sharma Son of Ravi Kant Sharma Resident of Village:  
Upadhyay sagar, PS : Ramgarh, District: Kaimur at Bhabhua.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. South Bihar Power Distribution Company Limited Patna through Shashi Bhushan kumar, Junior Electric Engineer (Revenue) Upper Division, Electric Supply, Ramgarh, Kaimur (Bhabhau)

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

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**Appearance :**

For the Petitioner : Mr. Dharmesh Kumar Shrivastava, Adv.

For the State : Mrs. Asha Devi, APP

For the O.P.No.2 : Mr. Vijay Kumar Verma, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

5      17-10-2016                      Heard learned counsel for the petitioner and counsel for the State as also counsel for the South Bihar Power Distribution Company Limited.

In this case, the petitioner is challenging the order taking cognizance dated 09.09.2015 passed by learned Additional Chief Judicial Magistrate, Kaimur, Bhabhua.

As per First Information Report, the petitioner has been appointed as a franchisee for the purpose of collecting revenue of the electric supply company. Certain money receipt book and D.C.R. were not handed over by him though he has returned some money receipts and D.C.R. which led to filing of the present case.

Learned counsel for the petitioner has submitted that no offence under Section 409 of the Indian Penal Code is made out against the petitioner as there was no entrustment of any material to the

petitioner and in support of his submission, he has placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Kailash Kumar Sanwatia Vs. State of Bihar & Anr.*** reported in ***(2003) 7 SCC 399*** wherein the Hon'ble Supreme Court has held that unless there is an allegation of entrustment and misappropriation of any material, no offence can be made out. It specifically appears from the First Information Report that certain receipts and D.C.R. mentioned therein have been handed over by the Sought Bihar Power Distribution Company to the petitioner but, the same was not returned to him and, thus, the petitioner cannot say that there was no entrustment from the supply company when the petitioner was appointed as a franchisee. Learned counsel for the petitioner has also submitted that during investigation, nothing has come out but, from the materials which have been collected during investigation, it appear that certain entrustment was made but was not returned.

This Court does not find any error in the impugned order taking cognizance dated 9.9.2015. This application is, accordingly, dismissed.

**(Shivaji Pandey, J)**

Rishi/-

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