

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 25077 of 2013

Arising Out of PS.Case No. -1612 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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Avtar Singh S/O Sri Jiwand Singh, Partner of Aeroculb, a Registered Partnership firm having its premises at, Ground Floor, Harihar Chamber, Boring Road, Patna-1

.... Petitioner

Versus

1. The State of Bihar
2. Jay Kumar Singh, Director, CECON Engineers India Pvt. Ltd., having its Registered Office at Bank Colony, St. Karen's School, Gola Road, Patna – 810503.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ajay Bihari Sinha
Mr. Rakesh Ranjan
For the Opposite Party/s : Mr. Amit Kr. Rakesh (App)
Mr. Jagannath Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 31-03-2016 Heard Sri Ajay Bihari Sinha, learned counsel who was assisted by Sri Rajesh Ranjan, learned counsel for the petitioner, Sri Amit Kumar Rakesh, learned Addl. Public Prosecutor as well as Sri Jagannath Singh, learned counsel who has voluntarily appeared on behalf of complainant/opposite party no. 2.

The sole petitioner, invoking inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, has prayed for quashing of an order dated 09-08-2011 passed in Complaint Case No. 1612(C) of 2011 pending in the court of Smt. Gayatri Kumari, Judicial Magistrate 1st Class, Patna. By the said

order, the learned Magistrate has taken cognizance of offence under Section 406 and 120(B) of the Indian Penal Code and summoned the accused persons.

The quashing of order of cognizance has been prayed on parity. It was argued that in the complaint petition, besides petitioner, four other persons were arrayed as accused, however; other four accused persons, arising out of same complaint, had approached this court by filing a quashing application under Section 482 of the Cr.P.C., vide Cr. Misc. No. 42464 of 2012 and a Bench of this Court, considering the fact that accusation was pertaining to a civil dispute, quashed the order of cognizance in respect of other four accused persons. However, while quashing the order of cognizance, a Bench of this court by its order dated 16-04-2015 passed in Cr. Misc. No. 42464 of 2012 has observed that if during arbitration, the Arbitrator records a finding regarding commission of any criminal offence, the opposite party no. 2 would be at liberty to take appropriate step. The submission made by learned counsel for the petitioner was not disputed by Sri Jagannath Singh, learned counsel for the complainant/opposite party no. 2 and he also agreed for disposal of the present petition in same terms i.e. in terms of order dated 16-04-2015 passed in Cr. Misc. No. 42464 of 2012.

Accordingly, the order of cognizance in the present case is set aside and the petition is allowed in same terms i.e. Cr. Misc. No. 42464 of 2012.

(Rakesh Kumar, J.)

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