

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6422 of 2012

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Mukund Lal Gaurav, Son of Hira Lal, Resident of F-167, Chadehverdai Nagar,
Taragarh Road, Ajmer, Rajasthan , Pin-305303.

.... Petitioner

Versus

1. The State of Bihar.
2. Sri Bijay Kumar, Son of Sri Shankar Lal, Resident of Lohanipur, P.S.
Kadamkuan, District Patna

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Ajay Kumar Thakur, Advocate Mr. Ajit Kumar, Advocate Mr. Avinash Kumar, Advocate
For the State	:	Mr. Yogendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 27-04-2017

This petition for quashing is filed against the order dated 27.02.2008, passed by learned Judicial Magistrate, Patna whereby he has taken cognizance of the offence under Section 420 of the Indian Penal Code in connection with Complaint Case No.98(C) of 2008.

2. A brief fact giving rise to this case, as narrated in the complaint petition filed by Bijay Kumar, opposite party no.2 is that he met the accused in Patna and expressed his intention to purchase marble as the accused was dealing in marble business in Rajasthan. Opposite party no.2 went to Ajmer and after selecting marble gave advance of Rs.35,000/- to purchase one truck of marble but neither the supply was made nor the advance money paid to the accused was



returned back to him.

3. The main contention of the learned counsel for the petitioner challenging this cognizance order is that no any transaction was done within the territorial jurisdiction of Patna. Even there was no proposal by the petitioner at Patna rather opposite party no.2 went at Ajmer and thereafter selecting marble, as per allegation, paid Rs.35,000/- but the same is denied by the petitioner. As an alternative argument, it is submitted that full amount was not paid and unless full amount is paid, there cannot be any delivery. It is also submitted that the complainant while giving his statement on solemn affirmation before the court accepts this fact in query to court question that he gave an advance of Rs.35,000/- to the petitioner at Ajmer. It is further submitted that for ingredient of cheating the deception must be at the very initial stage.

4. The learned APP appearing on behalf of the State opposes the contention of the learned counsel for the petitioner and submits that in the complaint petition, it is stated by the complainant that Rs.30,000/- was given in advance to the petitioner but supply of marble was not done by the petitioner.

5. Having considered the rival submissions of both sides and on perusal of records it is apparent from the statement given by the complainant on solemn affirmation before the court that



Rs.35,000/- was given by him to the petitioner at Ajmer and no transaction was done at Patna. Sections 171, 178, 179 and Section 180 Cr.P.C. deal with jurisdiction of the criminal courts in enquiries and trials. In particular Sections 177 and 178 Cr.P.C. read as such:

"177. Ordinary place of inquiry and trial.—Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

178. Place of inquiry or trial.—(a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas."

6. Applying the provisions of aforesaid sections of Cr.P.C. in present case, it is apparent that the complainant's proposal to purchase marble from the petitioner was given at Ajmer as well as the advance money was paid there as admitted by him in the court question at the time of his examination on solemn affirmation before the court, no part of the offence was committed within the territorial jurisdiction of Patna. Moreover, for attracting the offence of cheating, the deception must be at the initial stage of a transaction which is absent in this case so for the aforesaid reason I find that the territorial jurisdiction for making inquiry or trial in present case does not lie within Patna jurisdiction rather it is exclusively triable within the



jurisdiction of Ajmer; where the alleged occurrence is said to have taken place so the impugned order dated 27.02.2008, passed by the learned Judicial Magistrate, Patna in Complaint Case No.98(C) of 2008 is quashed.

7. In the result, this quashing petition is allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
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