

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.46036 of 2013

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

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1. Parmanand Singh S/O Late Suryanath Singh Resident Of Mohalla- Pustakalay Road, Buxar, P.S.- Town Thana Buxar, District- Buxar

.... Petitioner/s

Versus

1. The State Of Bihar
2. Deepak Kumar S/O Sitaram Agrawal Partner Of S.R. Enterprises, 318, Narayan Plaza, 3rd Floor, Exhibition Road, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.
For the State : Mr. Rajendra Singh Shastri, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-05-2017

Heard Mr. Anil Kumar, learned counsel for the petitioner. Despite valid service of notice, neither the complainant is present nor any counsel has appeared on his behalf.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioner for quashing the order dated 17.12.2003 passed by the learned Judicial Magistrate 1st Class, Patna in Complaint Case No. 2177(C) of 2003 by which the petitioner has been summoned to face trial for the offence punishable under Sections 406 and 420 of the Indian Penal Code (for short 'IPC').

3. It is stated in the complaint that the accused petitioner



had approached the complainant and requested him to supply iron rod and assured that after selling the iron rod, he would pay the sale proceed and in case the iron rod is not sold, the same would be returned to the complainant. It is stated that on 22.05.2003 the complainant supplied iron rod worth Rs.83,055/- vide Bill No. 83/2003-2004. On 30.06.2003, when the complainant met the petitioner, he told him that he has already sold the goods supplied by him but the sale proceeds would be given to him after few days. Thereafter, the petitioner made several excuses for not paying the sale proceeds. It is stated that on 10.09.2003 when the complainant went to the shop of the petitioner, the petitioner became angry and told him that he would not pay the amount. Thereafter, on 12.09.2003, the complainant sent legal notice to the petitioner but in spite of that the petitioner did not pay the price of the goods.

4. It is contended by the learned counsel for the petitioner that the entire allegation is false and concocted. He submitted that even if the entire allegations made in the complaint are believed to be true, none of the ingredients of the offences under Sections 406 and 420 of the IPC are attracted.

5. I have heard learned counsel for the parties and perused the record.

6. Having seen the materials available on record, I find that



it is a pure and simple case of money claim. The ingredients of the offences punishable under Sections 406 and 420 of the IPC are clearly wanting. It is well settled that a simple breach of contract would not attract any criminal offence. There is no allegation in the complaint that the petitioner had any intention to cheat the complainant right from the beginning. Only because the petitioner failed to pay the amount to the complainant after selling iron rod, no criminal offence can be said to be made out.

7. In that view of the matter, the impugned order dated 17.12.2003 passed by the learned Judicial Magistrate 1st Class, Patna in Complaint Case No. 2177(C) of 2003 whereby the petitioner has been summoned to face trial is hereby quashed.

8. The application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22-05-2017
Transmission Date	22-05-2017

