

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41395 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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1. Ashok Kumar Sharma S/O Belas Sharma Resident Of Village- Tadhwa Nandpur,
Police Station - Bairiya In The District Of West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar

2. Nadali Paswan S/O Late Ehukhal Paswan Resident Of - Ahirwaliya, P.S.-
Chautarwa, Dist.- West Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Adv.

For the Opposite Party/s : Mr. Malind Kumar Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-09-2017

1. Heard learned counsel for the petitioner and the State.

2. This application has been filed for quashing the order dated 02-09-2011 passed by learned Sub Divisional Judicial Magistrate, Bagaha, /West Champaran in Complaint Case No. C-567 of 2010 by which, the learned Magistrate after holding inquiry u/S 202 Cr.P.C. has found prima facie against the petitioners for the offence under Sections-406 & 420 of the IPC and 3(1)(X) of S.C./S.T. (Prevention of Atrocities) Act.

3. The allegation as contained in complaint is that the complainant was partner of 25% share in Raju Brick Industry. He sold his share orally to the petitioner on 15-05-2010 and executed affidavit in proof of the same. The complainant had to get 1,50,000/- bricks from the petitioner for which, the petitioner also executed an



agreement on the same day and promised to make delivery of the bricks within 20 days but the delivery was not made within the stipulated period and then the complainant sent pleader's notice which was replied by the petitioner.

4. The counsel for opposite party No. 2 has submitted in reply that intention of the petitioner was bad. The petitioner got the share of the complainant sold without making delivery of 1,50,000/- bricks worth Rs. 4,80,000/-. The complainant went and enquired from the petitioner who gave threat and abused the complainant by uttering his caste name.

5. The court below has after holding inquiry u/S 202 Cr.P.C. by the impugned order found prima facie case against the petitioner for the offence u/Ss406 & 420 of the IPC and 3(1)(X) of S.C./S.T. (Prevention of Atrocities) Act.

6. In the instant case, from own averment of the complainant in complaint petition, an agreement was entered into between the parties.

7. It has been submitted by the petitioner that he has already returned the bricks. It has further been submitted that even after taking the allegation at face value, the dispute is with regard to breach of contract and no criminal offence is made out. It has also been submitted that no offence u/S 3(i)(x) of SC/ST (Prevention of



Atrocities) Act is made out as there is no allegation that abuse was made by the petitioner to the complainant at a public place with intention to humiliate him. There is no mention of place or time where the petitioner is alleged to have abused the complainant by calling his caste name.

8. In the aforesaid circumstance, looking into the facts stated above, there is allegation of breach of contract and no criminal offence is made out. Similarly, this court finds that there is no specific allegation that the petitioner has abused the complainant at public place with intention to humiliate him.

9. Therefore, impugned order dated 02-09-2011 passed by learned Sub Divisional Judicial Magistrate, Bagaha, /West Champaran in Complaint Case No. C-567 of 2010 by which cognizance has been taken against the petitioner along with entire criminal proceeding against the petitioner is quashed.

10. This Cr. Misc. Application is *allowed*.

(Sanjay Priya, J)

A.K.V./-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	24-09-2017
Transmission Date	24-09-2017

