

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30652 of 2013

Arising Out of PS.Case No. -2017 Year- 2003 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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Branch Manager, M/S Gati Courier, Muzaffarpur, Represented By Deepak Kumar Singh, S/O Shree Raja Ram Singh, The Present Depot Incharge, C/O Gati Kwe Pvt Ltd, Akharaghat Road, Opposite Krishna Talkies, Town, P.S. And District Muzaffarpur.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Sajjan Kumar Giluka, S/O Late Mahavir Prasad Giluka, M/S International Corporation Nagarmal Banka Vivah Bhawan, Town, P.S. And District Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Advocate.
For the O. P. No. 2	:	Ms. Kumari Ranjana Bharti, Advocate.
For the State	:	Mr. Dashrath Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
Date: 03-04-2017

Heard learned counsel for the petitioner, learned
counsel for the opposite party no. 2 and the learned counsel for the
State.

2. This application, under Section 482 of the Code
of Criminal Procedure, is directed against the order dated
16.09.2003 passed in Complaint Case No. 2017 of 2003, whereby
the learned Judicial Magistrate Ist Class, Muzaffarpur, summoned
the accused-petitioner, on inquiry, under Section 204 of Cr.P.C
finding the prima facie case, under Sections 120B, 420 and 407 of



the Indian Penal Code.

3. The facts relating to this application is that, Sajjan Kumar Giluka, opposite party no. 2 filed the Complaint Case No. 2017 of 2013 with contention that he booked “Sarees” worth of Rs.21,340/- at the office of M/S Gati Courier (petitioner) for destination of Lucknow, on 18.05.2002, which was to be delivered at M/S Triloki Nath Agarawal and brothers, 311/22, Kamla Nehru Marg Chouck, Lucknow, but the delivery was not made there. The opposite party no.2 received letter from M/S Triloki Nath Agarawal about non delivery of “Sarees”. Thereafter, opposite party no. 2 approached to M/S Gati Courier (petitioner) and also sent legal notice through Advocate for payment of Rs.21,340/- with transportation cost of Rs.424/- but no heed was taken by this petitioner. As such, M/S Gati Courier (petitioner) misappropriated the “Sarres” worth of Rs.21,340/- and caused loss worth Rs. 21340/- in addition to expenses of freight charge of Rs.424/-.

4. On perusal of complaint petitioner, S/A of complainant and statement of witnesses, the learned Judicial Magistrate Ist Class, Muzaffarpur, summoned the accused-petitioner, on inquiry, under Section 204 of Cr.P.C finding the prima facie case, under Sections 120B, 420 and 407 of the Indian



Penal Code.

5. Learned counsel for the petitioner submits that, in fact, due to non delivery of the “Sarees” as sent by the opposite party no. 2 through M/S Gati Courier (petitioner) the opposite party no. 2 filed Complaint Case No. 05 of 2002 in the District Consumer Forum, Muzaffarpur, and the case was compromised on payment of Rs.30,000/- through Draft No. 084070 dated 27.01.2005 of ICICI Bank, Patna, against the claim of Rs.21,340/- and accordingly, the said case was disposed of. It is further submitted that the dispute between both parties has already been settled and the claim of opposite party no. 2 has already been redressed by the petitioner.

6. Learned counsel for the opposite party no. 2 agrees with the submission of the learned counsel for the petitioner and submits that the dispute between the petitioner and the opposite party no. 2 has been settled and petitioner has already paid Rs. Rs.30,000/- through Draft No. 084070 dated 27.01.2005 to the opposite party no.2.

7. Since the dispute has already been settled and opposite party no. 2 does not want to proceed further with Complaint Case No. 2017 of 2003, in which, petitioner has been summoned for the offence under Sections 120B and 420 of the



Indian Penal Code. Accordingly, the order dated 16.09.2003 passed in Complaint Case No. 2017 of 2003 and entire criminal proceeding is hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

