

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39507 of 2013

Arising Out of PS.Case No. -577 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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Deepak Jaiswal @ Deepak Kumar Jaiswal S/O Sri Raj Nath Jaiswal Resident Of
11A/11, Ramkrishna Palli Road, P.S. Rajar Hatt, District Kolkatta (West Bengal).

.... Petitioner

Versus

1. The State Of Bihar.
2. Deepak Kumar S/O Ajay Kumar R/O Karwan Ki Sarai, P.S. Malsalami, District Patna.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Prakash Chandra Agrawal, Advocate
For the Opposite Parties : Mr. Arvind Kumar Mouar, Advocate
Mr. Raj Krishna Jha, Advocate
Mr. Harish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 28-07-2017

Heard learned counsel for the petitioner as well as
learned counsel appearing on behalf of opposite party no.2.

2. In this quashing application filed under
Section 482 of the Code of Criminal Procedure, 1973, the
petitioner seeks setting aside the order dated 17.1.2013 passed
by Judicial Magistrate Ist Class, Patna City in Complaint Case
No.577 of 2012 whereby cognizance has been taken under
Section 406 of the Indian Penal Code.

3. The case of the complainant opposite party
no.2, in brief, is that he deals in wholesale trading of yellow



peas and he had given Rs.6,68,500/- in advance to the petitioner dealing as a broker to supply the Matar from M/S D.K. Trading, Kolkatta. It is alleged that the petitioner sent peas worth Rs.2,92,892/- only to the complainant from different firm name but neither the rest quantity of pea was supplied nor the money was returned back.

4. Learned counsel appearing on behalf of the petitioner submits that there are material contradictions in the statement made in the complaint and the statement given by the complainant on oath in the court, and the statement of enquiry witnesses.

5. Learned counsel appearing on behalf of the opposite party no.2 contends that the whole transaction was done with the petitioner as money was given to him by transferring money in his account and there is document relating to transaction.

6. Having considered rival submissions and on perusal of record, it appears that it is a settled principle of law that disputed question of fact cannot be looked into in this discretionary power exercising under Section 482 of the Cr.P.C. all these matters are to be tried by the trial court to ascertain the veracity of the truth or falsity of the allegation so



no merit is found in the application.

7. The petition stands dismissed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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