

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36833 of 2014

Arising Out of PS.Case No. -2887 Year- 2005 Thana -PATNA COMPLAINT CASE District-
PATNA

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Ajit Kumar Singh son of Late Deoki Nandan Singh Proprietor M/S Janki Medical
Agency Ujjain Market Siwan, P.S. Siwan Town, District – Siwan

.... Petitioner

Versus

1. The State of Bihar.
 2. M/S Concept Pharmaceutical Limited, 23 I.A.S. Colony, Kidwaipuri, P.S.
Kotwali, Patna
- Opposite Parties

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Appearance :

For the Petitioner : Mr. Loknath Singh, Advocate
For the Opposite Parties : Mr. Ram Naresh Roy, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 08-11-2017

The petitioner prays for quashing order dated 9.11.2005,
passed in Complaint case no. 2887C of 2005, by which the Judicial
Magistrate, 1st class, Patna has taken cognizance of the offence
under sections 406 and 420/120B IPC.

Complaint has been filed alleging that some consignment
of medicine was delivered to the accused nos. 4 and 5 through the
transporter, who are accused nos. 1 and 3. It is stated that the
accused persons in conspiracy misappropriated the sale proceeds of
the said consignment and caused wrongful loss to the complainant
and wrongful gain to themselves.

It is alleged that the accused persons, having dishonest
intention, sold the medicines contrary to the agreement between the



parties. On the basis of the aforesaid complaint, the court below has taken cognizance of the offence under sections 406 and 420/120B of the IPC.

Counsel for the petitioner submits that the alleged consignment was never received by him and that neither the complainant nor the petitioner is any longer continuing in the business. He has further submitted that the complaint has been lodged after a delay of 11 months of delivery of consignment. Besides, the dispute in question is out and out a civil liability.

From perusal of the complaint, prima facie, allegations under the aforesaid sections are made out. Since, the defence of the petitioner and factual contentions cannot be looked into by this Court in exercise of jurisdiction under section 482 of the Code of Criminal Procedure, it is not the appropriate stage to appreciate the points raised by the petitioner. However, it will be open for the petitioner to raise the points at the appropriate stage before the court below, which may be considered by it in accordance with law without being prejudice by this order.

The petition is dismissed with the aforesaid observations.

(Madhuresh Prasad, J)

Shashi.

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CAV DATE	NA
Uploading Date	13.11.2017
Transmission Date	13.11.2017

