

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15400 of 2014

Arising Out of PS.Case No. -288 Year- 2011 Thana -KHAZANIHAT District- PURNIA

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1. Alok Prakash Gupta Proprietor "M/S Alok Prakash Gupta" Son Of Late Jamuna Prasad Gupta At B-3, Near Mohini, Boaring Canal Road, S.K. Puri, P.S.- S.K. Puri, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sri Ashish Sinha S/O Sri Binay Kumar Sinha Director- Puja Agro Food Ltd., Growth Centre, Maranga, P.S.- K.Hatt, District- Purnia

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. D.N. Tiwari, Adv.
For the Opposite Party/s	:	Mr. Pranav Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT
Date: 24-08-2017

Heard learned counsel for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 09.07.2012, passed by Chief Judicial Magistrate, Purnia in K. Hatt (Maranga) P.S. Case No. 288 of 2011, whereby cognizance has been taken against the petitioner for the offences under sections 406, 420 of the Indian Penal Code.

The contention of the learned counsel for the petitioner is that no offence against the petitioner is disclosed and the present



prosecution has been instituted with mala fide intention for the purposes of harassment. The matter involved in purely civil in nature. This is a case of dispute of accounting in business transaction. Product was sold to the petitioner on credit and there was no entrustment of property. As a matter of fact, petitioner had returned some products which were bad in quality and not fit for sale, but the informant is making pressure for payment for those products also. Petitioner was served a legal notice, which also shows that there was no entrustment of any property. Perusal of the first information report shows that there are no ingredients of section 420 or 406 I.P.C. In support of his submissions for quashing the order taking cognizance, learned counsel has placed reliance on the judgments of the Hon'ble Apex Court reported in (2005) 13 Supreme Court Cases, 699, (2006) 6 Supreme Court Cases, 736, (2009) 14 Supreme Court Cases 696 and (2016) 1 Supreme Court Cases 348.

From perusal of the materials available on record and looking into the facts and circumstances of the case at this stage, this Court finds force in the submissions advanced by the learned counsel for the petitioner. The dispute involved is purely civil in nature for which a criminal prosecution is not at all warranted.

Accordingly, this application is allowed and the order dated 09.07.2012, passed by Chief Judicial Magistrate, Purnia in K.



Hatt (Maranga) P.S. Case No. 288 of 2011, whereby cognizance has been taken against the petitioner for the offences under sections 406, 420 of the Indian Penal Code is, hereby, quashed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	AFR
CAV DATE	30.06.2017
Uploading Date	
Transmission Date	

