

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.35620 of 2013**

Arising Out of PS.Case No. -662 Year- 2012 Thana -GAYA COMPLAINT CASE District- GAYA  
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1. Anil Kumar Sukumaran Son Of Sukumarandirector, Binzy Fabrics Erect Private Limited Cg-36, Pushpa Complex, Opposite Jindal Market, Hisar, Haryana At Present Resident Of 1465 Sector-13, Tusham Road, Babra Chowk, Hisar, District-Haryana (Haryana)

.... .... Petitioner/s

Versus

1. State Of Bihar  
2. Rakesh Kumar Son Of Kamdeo Singh, Proprietor Of M/S Singh Brothers And Company Resident Of Village-Balua, Police Station-Khizar Sarai And District-Gaya

.... .... Opposite Party/s  
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**Appearance :**

For the Petitioner/s : Mr. Manish Kumar No-2

For the Opposite Party/s : Mr. Veenod Shankar Modi(App)  
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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

4      18-01-2017                      Heard the parties.

By way of the present application filed under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the entire Complaint Case No. 662 of 2012 (Tr. No. 2138 of 2012, pending in the Court of Sri Anand Kumar Singh, Judicial Magistrate -1<sup>st</sup> Class, Gaya.

Prosecution story in brief is that opposite party no. 2 filed complaint case in the Court of Judicial Magistrate, Gaya alleging therein that complainant happens to be the proprietor of M/s Singh Brothers and Company. On instruction of accused on



Lalan Tripathi Project Manager contacted with the Complainant at Gaya in August 2011. On 07.09.2011 several mechanical jobs of Tata Steel was sent to the complainant and on basis of that the complainant started the work and completed as per satisfaction of the accused persons. As per term and condition decided, the project officer inspected the work and given cheque of Rs. 1,37,000/- to the complainant. On 19.01.2012 the complainant deposited the said cheque in the bank, but same has been dishonored by the bank and after the said dishonor of the cheque, the complainant send a legal notice to the petitioner/accused.

On the basis of the aforesaid Complaint Case No. 662 of 2012 came to be registered and at present pending for Trial.

The petitioner has submitted that since now he has already paid the alleged amount to the complainant, for which he has already filed an application before the Court below stating that the parties have compromised the matter and opposite party no. 2 has also filed an application for withdrawal of the case but no order has been passed on the petition filed by opposite party no. 2 and the Court below without considering these facts directed the petitioner to appear before the Court. Learned counsel for the petitioner further submitted that since the earlier his application under Section 205 of the Cr.P.C was allowed, therefore, he is not



required to appear before Court below and also since he is living in Haryana, he could not appear before the Court below. However the Court, thereafter, issued N.B.W. against the petitioner. It has further been submitted that since the opposite party no. 2 has already filed for withdrawal of his case under Section 257 of the Cr.P.C. and all the Sections are compoundable in nature, the Court below ought to have passed an appropriate order on the withdrawal application instead of that N.B.W had been issued against the petitioner. It has also been submitted that as entire amount had already been disposed and withdrawal petition filed by opposite party no. 2 is already on record hence, the entire proceedings has now become infructuous.

Heard learned A.P.P. also.

Having heard both sides, from perusal of the materials available on record, it appears that the withdrawal application filed by the opposite party no. 2 is on the record, which clearly shows that the opposite party no. 2 (complainant) has already received the alleged amount in question and he has compromised the case and desires to withdraw the case. But as N.B.W was issued against the petitioner, the petitioner is in difficulty to appear before the Court below.

Considering the entire discussion above, I think it proper



that learned Court below shall allow the petitioner to appear in the Court below and also pass an order on the petition filed under Section 257 of the Cr.P.C. for withdrawal of the case by opposite party no. 2

With the observation as above, this application is disposed of.

It is needless to say that the N.B.W issued against the petitioner shall remain stayed till appearance of the petitioner.

**(Vinod Kumar Sinha, J)**

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