

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.44958 of 2014**

Arising Out of PS.Case No. -2108 Year- 2006 Thana -PATNA COMPLAINT CASE District-  
PATNA

- =====
1. Rupesh Kumar Singh @ Rupesh Singh Son of Surendra Prasad Singh, Managing Director, M/S Samso Applicances Ltd. Tenth Floor, Amba Deep Building K. G. Marg, New Delhi, at present resident of 105, Humayupur, Safdarganj Enclave, Police Station- Safdarjung Enclave, New Delhi.
  2. Ritesh Kumar Singh @ Ritesh Singh Son of Shri Surendra Prasad Singh, Resident fo Radha Niwas Club Road, Opposite Ashok Restaurant, Mithanpura, Police Station - Mithanpura, District - Muzaffarpur, Bihar.

.... .... Petitioners

Versus

1. The State of Bihar.
2. Md. Phakre Alam Son of Late Murtaza Ahmad, Resident of E A Khan Gupta Market, Raja Bazar, Police Station - Shastri Nagar, District- Patna.

.... .... Opposite Party

=====

**Appearance :**

For the Petitioners : Mr. Ram Shankar Prasad  
For the Opposite Party : Mr. Ajay Kumar (APP)

=====

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**  
**ORAL ORDER**

3      30-11-2017                      Heard learned Counsel for the petitioners as well as the  
learned Counsel for the State.

The petitioners seek quashing of the cognizance order dated 18.11.2006 passed in Complaint Case No. 2108(C) of 2006 by the Judicial Magistrate, 1st Class, Patna, thereby taking cognizance under Sections 323, 341, 406 and 418 of the IPC and issuing summons to the petitioners to stand trial in the case.

The brief fact giving rise to the case is that the complainant (O.P. No. 2) worked as Area Sales Manager in M/s



Samso Appliance Private Limited, at Patna. Rupesh Kumar Singh, one of the accused is Managing Director of the said company and another accused Ritesh Kumar Singh is the Regional Manager. The complainant was appointed in the month of April 2006, but except salary other incidental expenditures were not paid however they assured to make payment of the same by 10.6.2006, but the amount was not paid, so he went to Muzaffarpur Office of the Company seeking payment but the accused persons assaulted him with fists, slaps and refused to give the due money, in this way the accused persons have misappropriated his 18,200/- rupees.

Learned Counsel for the petitioners submits that the complainant was appointed and worked only for one month i.e. in the month of April 2006 and as his service was not found satisfactory, so terminated him after paying salary, so being aggrieved the complainant has lodged this false case. Even taking into entirety the whole allegation it makes out a case of payment of incidental expenditure incurred by the complainant and does not make out prima facie case of breach of trust and cheating.

Having considered the submission and on perusal of the record the Court finds that the complainant raises a dispute that only salary was paid but other payment was not made but does not disclose in detail what payment remained due. In any case, in view of any dispute regarding payment of salary and other allowance concerned no offence of cheating and criminal breach of trust is made out, so the



ingredients of the offence being not made out in the case the entire criminal proceeding inclusive of the cognizance order dated 18.11.2006 in Complaint Case No. 2108(C) of 2006 pending in the Court of Judicial Magistrate, 1st Class, Patna is set aside.

The application stands allowed.

**(Arun Kumar, J.)**

Snkumar/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

