

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.12675 of 2014

Arising Out of P.S.Case No. -1 Year- 2011 Thana -PHULPARAS District- MADHUBANI

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Pashupati Nath Yadav S/O Hari Narayan Yadav Resident Of Village Jatahi, P.S-
Khutauna, District- Madhubani.

.... Petitioner

Versus

1. The State Of Bihar
2. Sahdeo Mochi S/O Janak Mochi Head Master Middle School Phulkahi, P.S-
Phulparas, District- Madhubani.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Bijay Bhushan Prasad, Advocate Mr. Vandana Singh, Advocate
For the Opposite Party No.2	:	Mr. Narayan Singh, Sr. Advocate
For the State	:	Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 19-07-2017

Heard.

2. This is an application under Section 482 of the Cr.P.C. to quash the order dated 31.10.2013 passed in Cr.Revision No.536 of 2012 by learned Additional Sessions Judge, Madhubani whereunder he refused to interfere with the order of ACJM, Jhanjharpur taking cognizance for the offence under Section 406 of the IPC.

3. The facts in brief is that the informant Opposite Party No.2 the headmaster of Middle School lodged an FIR with SHO of Phoolparas P.S. alleging therein that he gave a cheque of Rs.1,05,000/- to the petitioner on 21.01.2009 for supplying bricks. The petitioner accepted the said cheque and agreed to supply the bricks. The petitioner did not supply as agreed and so he has committed breach of trust by retaining the said amount.



4. It is submitted that as per agreement the bricks which were supplied and the same were used by the informant for his personal gain. It was also submitted that from the allegation no offence under Section 406 of the IPC is made out and at best it would be a case of breach of contract between the parties for transaction of some goods. The Magistrate has not applied its judicial mind and passed the impugned order in mechanical way. Learned Sessions Judge also failed to appreciate his submission made on behalf of the petitioner before the Revisional Court and so the orders are fit to be quashed.

5. On perusal of impugned order as well as the complaint petition, I find that the specific allegation of the informant is that an amount of Rs.1,05,000/- was given to the petitioner who encashed the amount but did not supply the bricks as agreed. The police submitted chargesheet against the petitioner and the Magistrate finding sufficient materials against the petitioner took cognizance of offence under Section 406 of the IPC. The learned Sessions Judge after examining the materials on record has rightly dismissed the revision.

6. In view of the discussions made above, I do not find any merit in this application. Accordingly, this application is dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
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