

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40699 of 2014

Arising Out of PS.Case No. -439 Year- 2013 Thana -COMPLAINT CASE District- SUPAUL

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Arvind Khan S/o Late Anirudh Khan R/o Village +Post - Bangaon, P.S.
Bangaon, Dist.- Saharsa

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Goutam

For the Opposite Party/s : Mr. Arun Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

3 28-08-2017 Heard learned counsel for the petitioner and the State.

The instant application has been filed for quashing the order dated 6.8.2014 passed by learned Sub-divisional Judicial Magistrate, Birpur at Supaul in Complaint Case No. 439 of 2013 whereby the learned Magistrate took cognizance under sections 420, 406 and 379 of the Indian Penal Code.

Counsel for the petitioner pleaded that the instant case involves purely civil dispute and as such it is an abuse of process of law.

From perusal of the complaint petition, it appears that the case under section 420, 379 and 406 of the Indian Penal Code is made out.

Since the order dated 6.8.2014 is under challenge in



the instant case and from perusal of the record, it appears that there is no interim order, staying further proceeding in this case against the order dated 6.8.2014 passed by the learned Magistrate. In that view of the matter there is no point for keeping the matter pending. The application is disposed of with liberty to the petitioner to file appropriate application before the court below seeking discharge on the ground that the present case is purely civil dispute and make all other submission which could be available under law including the submission that prior section is mandatory under section 197 of the Cr.P.C.

With the aforesaid, the application is disposed of. If the petitioner files an appropriate application along with a copy of this order, the court below is expected to pass reasoned and speaking order on such application within a period of three months from the date of filing of such application.

(Anil Kumar Upadhyay, J)

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