

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53000 of 2013

Arising Out of PS.Case No. -240 Year- 2012 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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Amarjeet Agrawal @ Amar Kumar Agrawal @ Amarjit Kumar Agrawal Son Of
Sajjan Kumar Agrawal, Dealer Of "Sonali Tractor" Resident Of Patro Ranch Road,
Near "Agrawal Petroleum Pump" Nawada, Police Station - Nawada Town, District -
Nawada

.... Petitioner

Versus

1. The State of Bihar,
2. Uma Kant, Son of Naresh Singh, Resident of Nandapur, P.S. Nardiganj,
District-Nawada.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
For the Opposite Party/s : Mr. Hirday Pd. Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
Date: 28-08-2017

Heard learned counsel for the petitioner, learned
counsel for O.P. No.2 and also learned A.P.P. appearing on behalf of
State.

2. This application has been filed under Section
482 of the Cr.P.C. to quash the order dated 22.03.2012 / 23.03.2012
passed in Complaint case No. 240 (C) of 2012, whereunder the
Chief Judicial Magistrate, Nawada summoned the accused-
petitioner, on inquiry, under Section 204 of Cr.P.C. finding prima
facie case under Sections 420, 406, 120-B and 506 of the Indian
Penal Code.

3. The fact leading to this application is that O.P.
No.2 Uma Kant filed Complaint Case No. 240 (C) of 2012 in the



Court of Chief Judicial Magistrate, Nawada with contention that on 17.10.2011, he purchased a Sonalika Tractor on fixation of price Rs. 5,57,531/- to M/s. Agrawal Tractor belonging to the petitioner. Out of which Rs. 8200/- for insurance, Rs. 15,000/- for registration and Rs.50,000/- as Subsidy, was to be paid by M/s. Agrawal Tractor. At the time of purchasing the Sonalika tractor, under scheme, he also handed over one old Swaraj Tractor of which the price was fixed Rs. 2,65,000/- by M/s. Agrawal Tractor and remaining amount was to be paid by him within two months. He paid Rs. 1501, Rs. 50,000/, Rs. 20,000/- and Rs. 30,000/- on 17.10.2011, 10.11.2011, 01.12.2011 and 05.12.2011, respectively, to M/s Agrawal Tractor and only Rs. 1,13,730/- was due to be paid by him. On 01.03.2012, one Chunu Singh of the Finance Company came at his house and disclosed that the Sonalika Tractor, which is purchased by him, is still in the name of M/s. Agrawal Tractor. Thereafter, complainant/O.P. No.2 went to M/s. Agrawal Tractor on 02.03.2012 and made query then he was threatened and he was also asked to deposit Rs. 2 Lakhs otherwise the paper of the tractor will not be transferred in his name. At the time of purchasing of the Sonalika tractor, M/s. Agrawal Tractor had not handed over any paper to him.

4. Learned counsel for the petitioner submits that it would appear from the F.I.R. that according to complainant/O.P. No.2, he has to pay Rs. 1,13,730/- to M/s Agrawal Tractor belonging to the petitioner and petitioner is still ready to give the paper of



tractor on payment of the aforesaid amount by the complainant-O.P. No.2. Further submission is that from perusal of the F.I.R. it appears that the allegation as leveled against the petitioner is pure civil in nature and summoning the petitioner through impugned order dated 22.03.2012 / 23.03.2012 passed in Complaint case No. 240 (C) of 2012, on inquiry, under Section 204 of Cr.P.C. finding prima facie case under Sections 420, 406, 120-B and 506 of the Indian Penal Code is illegal and amounts abuse of process of Court.

5. Learned counsel appearing on behalf of the complainant-O.P. No.2 submits that there is no illegality in the impugned order, but fairly conceded that according to the Complainant Petition, Rs. 1,13,730/- is still payable by the complainant/O.P. No.2 to M/s. Agrawal Tractor belonging to the accused-petitioner out of the total amount of price of the tractor which is purchased by the complainant-O.P. No.2.

6. On perusal of the complaint petition, it appears that according to complainant Rs. 1,13,730/- is still payable by him to the accused-petitioner, who is Proprietor of M/s Agrawal Tractor against the price of purchased Sonalika Tractor the accused-petitioner is still ready to handover the paper on payment of remaining amount of Rs. 1,13,730/- of price of the tractor purchased by the complainant-O.P. No.2. As such, the dispute as disclosed in the complaint petition appears to be of accounting and civil in nature. As such, summoning the accused/petitioner vide



impugned order 22.03.2012 / 23.03.2012 passed in Complaint case No. 240 (C) of 2012 on inquiry, under Section 204 of Cr.P.C. finding prima facie case under Sections 420, 406, 120-B and 506 of the Indian Penal Code is illegal and abuse of process of Court.

7. In the result, the impugned order dated 22.03.2012 / 23.03.2012 passed in Complaint case No.240 (C) of 2012, whereunder the Chief Judicial Magistrate, Nawada summoned the accused-petitioner, on inquiry, under Section 204 of Cr.P.C. finding prima facie case under Sections 420, 406, 120-B and 506 of the Indian Penal Code is hereby quashed. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31.08.2017
Transmission Date	31.08.2017

