

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9682 of 2015

Arising Out of PS.Case No. -2896 Year- 2009 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Tripurari Kumar Son of-Sri Ramkant Singh @ Ramakant Singh Resident
of Village-Dharampur, P.O.-Fulapur, P.S.-Athmalgola, District-Patna-
803211

.... Petitioner/s

Versus

1. The State of Bihar
2. IFFCO Kishan Sanchar Ltd. (IKSL) State Office, Lok Nayak Bhawan
702-603, 6th Floor, Patna through Sri Kumar Manish Assistant Manager
(Sales and Marketing) Bihar, IKSL Personnel no.100083.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad

For the Opposite Party/s : Mr. A.K.Choudhary(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

4 04-01-2018 Heard learned Counsel for the petitioner as well as the
learned Counsel for the State.

The petitioner seeks quashing of the cognizance order
dated 8.9.2011 passed by learned Judicial Magistrate, 1st Class, Patna.
in Complaint Case No. 2896 (C) of 2009, thereby taking cognizance
of the offence under Section 406 of the IPC and subsequently issued
summons to stand the trial.

The brief fact giving rise to the case is that IFFCO
Kishan Sanchar Limited appointed the accused (the petitioner) as
Marketing Associate and posted him in Patna district to promote
marketing and sale of IKSL products like Sim Recharge, handset
torch and lantern. Such articles worth Rs. 1,44,079/- was handed over



to him as per the agreement and he was to return back the sale proceed to the IKSL after selling those goods, though he sold those goods but did not return back the money rather misappropriated the whole amount. Despite legal notice for returning the sale proceeds money was not paid.

Learned Counsel appearing on behalf of the petitioner submits that it is purely civil dispute. However, the fact is that he had returned back all the money, the sale proceeds of the goods, rather part of his salary to the tune of RS. 48,600/- is due with the complainant.

Having considered the rival submission and on perusal of the record the court finds that as per the agreement the products of the complainant like Sim recharge voucher, handset torch and lantern worth Rs.1,44,079/- was handed over to the petitioner for sale with condition to return back the said amount after sale but as per allegation it was not returned, so prima facie a case under Section 406 is made out. The defence of the petitioner that he had paid back the whole amount cannot be considered at this stage as it is subject of scrutiny on evidence, moreover at present and there is no impeccable document to show payment of the amount.

So the application stands dismissed.

Snkumar/-

(Arun Kumar, J.)

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