

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13141 of 2012

Arising Out of PS.Case No. -0 Year- null Thana -null District- PURNIA

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Md. Mukrram, s/o Md. Muslim, The Director, Sunshine Global Agro Ltd, L.M. Tefobulid Pvt. Ltd., Registered Officer- M.B. 1d Sakarpur Extension Madhuban Road, Delhi- 110092, Head Office- Ford Company N.H. 31, Purnea Near Bari Masjid, P.S.- Sahayak (K.Hat), District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar
2. Rajiv Ranjan Singh, s/o late Deo Narayan Singh, resident of Radio Station Road, N.H. 31, P.S.- K.Hat, District- Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar, Advocate.
For the opposite party No.2: Dr. Bidhu Ranjan, Advocate.
For the State : Mr. Sanjeev Ranjan, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 13-02-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 30.01.2012 passed by the learned Chief Judicial Magistrate, Purnea, in Complaint Case No. CA 278 of 2012 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioner for the offences under Sections 406 and 420 of the Indian Penal Code.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and learned counsel for the State.

3. Learned counsel for the petitioner has submitted that this is a matter of purely civil dispute. The complainant was



employee of this petitioner. The petitioner has lodged the case against the complainant opposite party No. 2 vide Complaint Case No. 3495 of 2011, prior to lodging of this case by the complainant, making allegation against the complainant of misappropriating the amount of the petitioner.

4. Learned counsel for the opposite party No. 2 has appeared and submitted that the complaint case filed by this petitioner vide Complaint Case No. 3495 of 2011 has already been quashed by this Hon'ble Court.

5. From reading of paragraph-14 of the complaint petition it appears that complainant has alleged non-payment of commission amount as agreed between the parties for sale of different lands as mentioned in detail in the complaint petition by the complainant. As such, from the complaint petition itself it appears that this is matter of pure and simple money claim. The complainant has levelled grievance for non-payment of commission as agreed between the parties.

6. Learned counsel for the petitioner has relied *upon a decision* reported in (2013) 6 SCC 740 (*Chandran Ratanswami Vrs. K.C. Palanisamy*) wherein the Hon'ble Supreme Court has held that criminal proceedings initiated to avoid civil liability/to convert purely civil dispute into criminal case – “Access jurisprudence”, held,



requires courts to deal with legitimate litigation, but equally also requires quashment of proceedings where such litigation is abuse of process of court – Criminal proceedings will be abuse of process of court.

7. This Court after looking into the entire allegation in the complaint petition finds that it is a matter of purely civil dispute. The complainant has made money claim against the petitioner regarding commission alleging that the petitioner has not paid the agreed commission. Therefore, it is a matter of pure and simple civil dispute.

8. As such, the civil remedy is available to the complainant to redress his grievance before appropriate forum.

9. Therefore, the impugned order dated 30.01.2012 passed by the learned Chief Judicial Magistrate, Purnea, in Complaint Case No. CA 278 of 2012 along with the entire criminal proceeding against the petitioner is hereby quashed.

10. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	20/02/2018
Transmission Date	20/02/2018

