

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11525 of 2015

Arising out of Complaint Case No.-2669(C) Year-2011 PATNA COMPLAINT CASE
District- Patna

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Om Prakash @ Om Prakash Gupta, Son of Late Radha Kishun Sah @ Radha Krishna Sah, Resident of Village + Post-Piro, Police Station- Piro, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shivendra Kumar Singh, Son of Krishnanandan Singh, Resident of Village + P.O.-Kharangpur, Police Station-Bihta, District-Patna at present Bikram Bhawan, Bhavar Phokhar, Police Station- Piro, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Anil Kumar, Advocate
For the Opposite Party/s :	Mr. Kumar Ravish, Advocate
	Mr. Kashyap Kaushal, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 21-03-2018

This application has been filed under Section 482 of the Cr.P.C. for quashing the cognizance taken by Smt. Rashma Verma, learned Judicial Magistrate, 1st Class, Patna vide order dated 09.01.2012 in Complaint Case No. 2669(C)/ 2011 for an offence under Sections 406 and 420 of the Indian Penal Code.

The facts in brief goes to show that the complainant respondent herein is owner of a rice mill namely M/s Ganesh Rice Mill, Amhara, Bihta, Patna and he entered into an agreement with the present petitioner on 02.12.2009 for running of the rice mill on a security amount of Rs. 2,51,000/- and a rent



of Rs. 1,25,000/- per month.

It is stated that on the next month when the complainant demanded the rent of the rice mill from the petitioner, he did not pay the same nor did he pay the electricity bill, as a result of which the electricity connection was disconnected. Inter alia contending that the complainant is to receive a sum of Rs. 11,53,175/- for a period of eight months from the petitioner and after deduction of the security amount of Rs. 2,51,000/- the petitioner has to pay a sum of Rs. 9,24,153/- which has not been paid, alleging commission of an offence due to non-payment of the aforesaid amount the complaint in question was filed and the complaint having been registered, as indicated hereinabove, this application for quashing the complaint.

It is the case of the applicant that at best even the entire allegations made in the complaint are accepted, it would amount to breach of an agreement and non-payment of rent of Rs. 9,24,153/- in pursuance to the agreement. This does not constitute an offence under Section 406/420 of the I.P.C. and, therefore, the complaint is liable to be quashed.

Having heard learned counsel for the parties and on going through the records of this case, I am convinced that no



criminal offence under Section 406 or 420 I.P.C. is made out. At best on a bare reading of the complaint what is made out is that there may be a breach of agreement dated 02.12.2009 and the rent of Rs. 9,24,153/- is liable to be recovered from the applicant by the respondent complainant. This is nothing but a civil dispute arising out of breach of the agreement in question dated 02.12.2009 for which taking cognizance in a complaint case, in my considered view, was not required. No criminal offence having been made out, the proceedings in the criminal case has to be and is accordingly quashed.

The application is allowed, order dated 09.01.2012 passed in Complaint Case No. 2669 (C) of 2011 by Judicial Magistrate, 1st Class, Patna is quashed and liberty is granted to the respondent complainant to take recourse to the common law remedy and seek enforcement of the agreement in accordance with law and recovery of any amount due from the agreement.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	23.03.2018
Transmission Date	23.03.2018

