

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28633 of 2015

Arising Out of PS. Case No.-1932 Year-2014 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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1. Pawan Bhasin, S/o K.K. Bhasin Proprietor, E-Spectrum Medical Solutions, Having its registered Office at K-75, Udyog Nagar Industrial Area, Near Peera Garhi Chowk, P.S. - Mianawali Nagar, Delhi - 110041
 2. Devesh Kumar @ Devesh Kumar Singh S/o Shyama Prasad Singh Sales Representative, E-Spectrum Medical Solutions, Having its registered office at K-75, Udyog Nagar Industrial Area, Near Peera Garhi Chowk, P.S. - Mianawali Nagar Delhi – 110041
- ... Petitioners

Versus

1. The State of Bihar.
 2. Dr. Dinesh Prasad Gupta S/o Late Jagannath Prasad R/o Village - Rajopatti, Dumra Road, P.S. - Sitamarhi, District – Sitamarhi ... Opposite Parties
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Appearance :

For the Petitioners : Mr. Awadhesh Kumar, Adv.
For the Opposite Parties : Mr. Ajit Kumar, APP

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 23-03-2018 None appears for the opposite parties inspite of service of notice.

Seeking quashment of Complaint Case No. 1932 of 2014 (Trial No. 1937 of 2015) pending before the Chief Judicial Magistrate, Sitamarhi, this application has been filed under Section 482 of the Criminal Procedure Code.

From a perusal of the complaint and the material available on record it is seen that the complainant, Dr. Dinesh Prasad Gupta had filed a complaint case mainly on the ground that he has established a diagnostic center, namely, Sitamarhi Jaanch Kendra entered into an agreement with the applicant herein for purchase of pre-owned C.T. Scan and M.R.I. Machine



and according to the terms and conditions of the agreement the Machine should not be two and half years old and should be installed within six months, inter alia, contending that the Machine was not installed within six months and the Machine installed was ten years old, the petitioner has filed the aforesaid complaint under Sections 406, 418, 420 and 427/34 of the Indian Penal Code and records further indicate that complaining deficiency in service and supply of pre-owned Machine as per the agreement complaint is filed before the State Consumer Dispute Redressal Forum, Patna.

Having heard the learned counsel for the complainant and on perusal of the record it is clear that the complaint is primarily with regard to the breach of the agreement in question and that supply of the Machine is in violation of the agreement of breach.

In my considered view this is a civil dispute pertaining to breach of the agreement and the ingredients necessary to constitute an offence under Sections 406 and 420 of the Indian Penal Code are not made out.

The complaint petition is accordingly quashed.
This application is allowed.

(Rajendra Menon, CJ)

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