

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45214 of 2018

Arising Out of PS. Case No.-1832 Year-2015 Thana- COMPLAINT CASE District- Araria

Raj Kumar Choudhary, S/o Late Ram Chalitra Choudhary, Proprietor M/s Mahakali Motors Pvt. Ltd. At Village Kaptanoara, P.S.- Sadar, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Vibhash Chandra Mishra, Son of Sri Bhola Mishra, Resident of Village- Rajeshwari, P.S.- Chhatapur, District- Supaul (Bihar).

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawal Kishor Singh, Adv.
For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 11-01-2019 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 120B and 420 of the Indian Penal Code.

It appears that notices were issued to the complainant Opposite Party No.2, vide order dated 08.08.2018 and subsequently on 25.10.2018. However, vide order dated 25.10.2018, the ordinary process of notice was directed to be served upon Opposite Party No.2 through the learned counsel appearing on behalf of him before the learned Court below. The



office note dated 10.01.2019 reflects that notices were served upon the learned counsel for the Opposite Party No.2 appearing before the learned Court below, but none is appearing on behalf of Opposite Party No.2.

The prosecution case as per the complainant is that the petitioner is the proprietor of Mahakali Motors Pvt. Ltd., Forbesganj and co-accused persons namely Kapil Nath Jha and Manish Kumar Jha were the employee of the aforesaid company who were agreed to handover a Tata Magic Van to the complainant, subject to payment of monthly installment of Rs.8180/-. Subsequently, for providing a Tata Magic Van down payment of Rs.95,000/- was made to the aforesaid employee of the complainant and thereafter, the Tata Magic Van was delivered on 30.06.2013 to the complainant. It is further alleged that the complainant paid the fourteen installments for the Tata Magic Van to the tune of Rs.1,14,520/- to the aforementioned two employees of the company, but subsequently, the accused persons seized the vehicle and was released the same after realizing payment of Rs.40,000/- from the complainant. It is further alleged that the complainant came to know that the aforesaid employee of the company namely Kapil Nath Jha and Manish Kumar Jha were absconding and the petitioner being the



proprietor of the company has lodged a criminal case against them

It is submitted by learned counsel for the petitioner that the thrust of accusation is against co-accused Kapil Nath Jha and Manish Kumar Jha. Even assuming the accusation to be true, no offence under Section 420 of the I.P.C. is made out against the petitioner as admittedly no payment was made to the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State that the learned Magistrate finding the prima facie accusation true directed for issuance of process against the petitioner after cognizance being taken.

Considering the accusation arising out of contractual nature of dispute, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-V, Araria, in connection with Araria Complaint Case



No.1832 C/2015, subject to the conditions as laid down under
Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Ashwini/-

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