

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6650 of 2016

Arising Out of PS. Case No.-294 Year-2012 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

=====

INDRA BHUSAN KUMAR SINGH @INDU BHUSHAN SINGH S/o Late
R.P. Singh, Proprietor of Mayank Auto Mobiles, Chakkar Chowk, P.S.-
Kazimohammadpur, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

1.The State Of Bihar Patna.
2.Babita Kumari, D/o Rama Nand Thakur, Resident of Mohalla-North of
Sanjay Cinema, Brahampura, P.S-Brahampura, Dist-Muzaffarpur.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Pandey, Adv.
Mr. Aditya Dev,Adv.
For the Opposite Party/s : Mr.Pawan Kr. Chaurasia, APP.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 24-01-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

This application has been preferred for quashing the
order dated 19.06.2015 passed by the Chief Judicial Magistrate,
Muzaffarpur in Kazimohammadpur P.S. Case No.294/2012
dated 04.09.2012 by which the learned A.C.J.M, Muzaffarpur
has taken cognizance against the petitioner under Sections 406
and 420 of the Indian Penal Code and was pleased to issue
summon to the petitioner.

The brief case of the informant giving rise to the
registration of the police case are stated in the complaint petition
filed at first instance before the learned Chief Judicial



Magistrate, Muzaffarpur, alleging therein that the Opposite Party No. 2 (since deceased) had purchased one TVS Scooty Teenz on 10.02.2007 from Mayank Automobile of TVs Motor Company Ltd. for which she had paid Rs.26,000/-. It was alleged in the complaint petition that the mileage of the said vehicle was not 60 K.M per liter as assured to her by the petitioner. The allegation was that the vehicle was giving a mileage of 20 K.M. per liter only. It was further alleged that the Opposite Party No. 2 approached the petitioner giving assurance that its mileage will increase after third servicing of the vehicle but even after third servicing the mileage of the said vehicle could not improve. The complainant/informant sent a notice to the petitioner but the petitioner did not give any reply of the said notice.

Learned counsel for the petitioner submits that a bare reading of the complaint petition which was referred to police under Section 156 (3) Cr.P.C. by the learned Chief Judicial Magistrate, Muzaffarpur, giving rise to the police case, would show that it may at best be a case of defect in good or deficiency in service but by no stretch of imagination the criminal case could have been lodged against the petitioner. Learned counsel submits that further continuation of this case is only an abuse of



the process of the Court. It is also submitted that it would be in the interest of justice to quash the order taking cognizance.

Learned counsel for the State submits that because a charge-sheet has already been submitted in the present case, no interference is required with the order taking cognizance.

This court is of the considered opinion that on a bare reading of the complaint petition which has given rise to the present case no offence at all under Section 406 or 420 as alleged could be made out. In the nature of allegation the petitioner who is proprietor of the Mayank Automobiles from where the petitioner had purchased the vehicle could not have been prosecuted. Admittedly, it is a matter in which the dispute was over the lesser mileage being given by the vehicle.

This Court is of the view that in the interest of justice and to prevent the abuse of the process of the Court the order taking cognizance is fit to be quashed.

The order taking cognizance is quashed.

The application is allowed.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

U		T	
---	--	---	--

