

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.730 of 2017**

Arising Out of PS. Case No.-526 Year-2013 Thana- KOTWALI District- Patna

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Samsung India Electronics Pvt. Ltd. a company incorporated under the Companies Act, 1956 having its registered office at A-25, Ground Floor, Front Tower, Mohan Cooperative Industrial Estate, New Delhi – 110 044 through its authorized signatory Mr. Jayanta Rakshit, son of Santi Ranjan Rakshit presently posted as Commercial Head, Patna Branch situated at 5<sup>th</sup> Floor, Vasundhara Metro Mall, East Boring Canal Road, Near Raja Pool, P.S. - Budha Colony, Patna – 800 001. ... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Govt. of Bihar, Patna.
  2. The Director General of Police, Patna, Bihar.
  3. The Senior Superintendent of Police, Patna, Bihar.
  4. The Officer-In-Charge, Kotwali Police Station, Patna.
  5. Dharmendra Prasad Singh, son of Sri Hari Narayan Singh, resident of 166, Police Colony, P.S. - Anishabad, District – Patna. ... .. Respondents
- =====

**Appearance :**

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|----------------------|---|---------------------------------------------------------|
| For the Petitioner/s | : | Mr.Rajesh Ranjan, Advocate<br>Ms. Maria Nazir, Advocate |
| For the Respondent/s | : | Mr.Ajay Kumar Sharma, AC to AG                          |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

3      02-08-2022                      Heard learned counsel for the petitioner and Mr. Ajay Kumar Sharma, learned AC to AG.

No one appears on behalf of the informant–respondent no. 5 to oppose this application.

This writ application has been preferred seeking quashing of the First Information Report of Kotwali P.S. Case No. 526 of 2013 registered under Section 420 and 468 of the Indian Penal Code.

Learned counsel for the petitioner submits that on a bare reading of the First Information Report, as contained in Annexure



‘1’, it would appear that no case at all is made out under Section 420 & 468 I.P.C. It is submitted that as per the written complaint of the complainant-informant (respondent no. 5), he had purchased a new Samsung Split AC from accused No. 4 after paying full consideration money of Rs. 30,300/-. The AC was installed in his house, but, according to him, it was not cooling and the air was smelling problem. The informant alleged that he intimated this problem to the engineer but the same was not cured. He made a call to the customer care of the accused whereupon a service engineer visited and he was also informed about the problem. It is alleged that the AC sold to the informant was an old one and used AC, whereas the accused persons had received full consideration amount of a new AC.

Learned counsel for the petitioner submits that at best it is a case in which the informant is alleging defect in goods for which he could have maintain a complaint case before the consumer forum but by no stretch of imagination a criminal case may proceed in the kind of allegations against the petitioner. It is further submitted that the petitioner has already returned the entire amount which fact has been brought on record in the counter affidavit filed on behalf of the respondent no. 3 & 4.

Attention of this Court has been drawn towards the statements made in paragraph ‘9’ of the counter affidavit. The



counter affidavit of the State is also disclosing that the investigation so far has revealed that the informant (respondent no.5) had purchased the Air Conditioner which had got some defects in cooling as a result whereof the present dispute arose.

Having regard to the materials available on the record, this Court is of the considered opinion that the First Information Report without adding or subtracting anything out of it is not disclosing commission of any cognizable offence. A pure and simple dispute in relation to the goods purchased by the informant has been tried to be given a colour of criminal proceeding. The counter affidavit reveals that the petitioner has already refunded the entire purchase amount to the informant. In these circumstances, this Court is of the considered opinion that the First Information Report is required to be quashed in the interest of justice.

As a result, this writ application succeeds. The First Information Report and all subsequent action are hereby quashed.

**(Rajeev Ranjan Prasad, J.)**

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

