

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14703 of 2021

Arising Out of PS. Case No.-264 Year-2019 Thana- AHIYAPUR District- Muzaffarpur

KISHORE JHA S/o Jaynath Ojha Chief Executive Officer-cum-Director,
Ergos Business Solutions Pvt. Ltd., At Burnao-90, Purva Venezia, P.S.-
Yelahanka New Town, Bangalore-560064.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chanda Devi W/o Sharvan Kumar R/o C.R.P.F. Cmp, Majhauriya, P.S.-
Ahiyapur, District- Muzaffarpur.
3. Samarpan Jeevika Mahila Kishan Producer Company, Ltd. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sanchay Srivastava, Advocate Mr. Aalekh Anand, Advocate
For the Opposite Party/s :		Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 01-05-2023 Due to non-availability of file, the order could not be
typed on time.

Heard learned counsel for the petitioner and learned
APP for the State.

This application has been filed for quashing of F.I.R
vide Abhiyapur P.S. Case No. 264 of 2019 registered for the
offences under Sections 406, 420 and 120B of the Indian Penal
Code.

It has been submitted by learned Senior counsel for
the petitioner that there is an arbitration agreement between the
parties. He has further submitted that the present case is a civil



dispute which is being given a colour of criminal case.

Learned counsel for the Opposite Party No. 2 does not deny the existence of arbitration agreement but he submits that offences have been committed by the accused persons and a criminal offence is made out against them.

I have gone through the F.I.R and also perused the materials available on record. It appears that the dispute is primarily of civil in nature and the same can be resolved, if the parties resolve their dispute through arbitration. The Arbitration Agreement dated 08.03.2017 annexed in the petition is the agreement for completing ware housing solution and clause 22 of the same reads as follows:-

“In the event of any dispute or controversy between the parties to this agreement in connection with the rights and obligations hereunder, the parties shall first endeavor to cooperate to resolve the dispute by mutual consultation. In the event that dispute is not resolved by mutual consultation, the same shall be referred to arbitration whereby a sole arbitrator will be appointed jointly by both the parties in accordance with the Arbitration and Conciliation Act, 1996 as amended from time to time and the venue of the arbitration shall be in Patna, India. The language of the arbitration shall be in English. The parties shall bear respective cost of arbitration unless otherwise directed by the arbitrator.”

In view of the above, both the parties have consented for



arbitration and have consented for appointment of Shri. Dinesh Kumar Sharma,, District and Sessions Judge (Rtd) as Arbitrator in this case. Accordingly, this application is allowed and the F.I.R vide Abhiyapur P.S. Case No. 264 of 2019 registered for the offences under Sections 406, 420, 120B of the Indian Penal Code is hereby quashed in the interest of justice and the matter is referred for arbitration before learned Dinesh Kumar Sharma, District and Sessions Judge (Rtd) under the Arbitration and Conciliation Act, 1996.

The office is directed to communicate this order to the learned Dinesh Kumar Sharma, District and Sessions Judge (Rtd) at the address given below:-

“A 104, Shiva Apartment, IAS Colony, Near Alankar Maruti, Rupaspur, Bailey Road, Patna- 801503.”

(Sandeep Kumar, J)

Harsh/

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

