

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 43525 of 2022

Arising Out of PS. Case No.-3202 Year-2021 Thana- SARAN COMPLAINT CASE District-
Saran

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1. UTAPLA GANGULY @ UTPAL KUMAR GANGULI @ UTPAL GANGULI Son of Late Sishir Ganguli Resident of 14, South End Park, Sarat Bose Road, P.O- Sarat Bose Road , P.S- Rabindra Sarobar, Sub Inspector- Circus Avenue, Dist- Kolkata, West Bengal
 2. Jeet Ganguly @ Jaijit Ganguli Son of Utpal Kumar Ganguli Resident of 14, South End Park, Sarat Bose Road, P.O- Sarat Bose Road , P.S- Rabindra Sarobar, Sub Inspector- Circus Avenue, Dist- Kolkata, West Bengal
 3. Prateep Mukherjee @ Pratip Mukherjee Son of Shri Paritosh Mukherjee Resident of P-356, Keyatola Road Sarat Bose Road, P.O- Sarat Bose Road , P.S- Rabindra Sarobar, Dist- Kolkata, West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ritesh Kumar Son of Shri Surendra Prasad Resident of village- Sahebganj, P.O- Teenkonja, P.S- Chhapra Nagar, Dist- Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Jitendra Kumar Singh, APP
For Op 2	:	None

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 28-03-2024 Heard learned counsel for the parties.

2. Despite repeated adjournments and issuance of valid service of notice, nobody appears on behalf of the Opposite party No. 2.

3. This application has been filed for quashing of order dated 28.01.2022 passed by the Court of Learned Judicial Magistrate, 2nd Class, Saran at Chhapra in Complaint Case No. 3202 of 2021 (Enquiry No. 014/2022) by which the Learned



Court below has taken cognizance under Section 406 and 420 of I.P.C. and directed for issuance of summon .

4. The case of the complainant in short is that the Complainant is a businessman, thereby entered into an agreement with Surji Agro Foods Private Limited on 14.11.2017 whereby the complainant was appointed as a Super Distributor to sale and circulate Surji's products. The Complainant further alleges that the accused persons collectively visited M/s Shri Ram Traders (shop owned by the Complainant) for signing the Agreement and took an amount of Rs. 1,50,000/- (Rs. One Lakh Fifty Thousand Only) by way of security. The Complainant further stated that that the first set of goods, after multiple follow ups and a series of assurances were followed by a delivery worth Rs. 71469/- (Seventy One Thousand Four Hundred and Sixty Nine Only) on 18.12.2017. However, the Complainant received the first allocation in state, to find that the products were in damaged condition and after complaining about the same the accused persons recalled the goods. Thereafter, various efforts were made by the Complainant but goods were not sent by the accused and accordingly the Complainant terminated the work and asked the accused persons to return the security deposit which the accused persons agreed



to. It is further alleged that thereafter the money was not being refunded to the Complainant for which legal notice was also sent to the accused persons. Thereafter, a settlement was agreed between the Complainant and the accused persons for an amount of Rs. 1,19,770/- which were supposed to be paid by the accused persons. However, despite the same, the amount was not paid by the accused persons and thereafter, again another legal notice dated 02.09.2020 was sent to the accused person after which an amount of Rs. 25,000/- (Rupees Twenty Five Thousand Only) was deposited in the account of the father of the complainant and in light of COVID-19 expressed inability of make remaining payment but assured of making payment of Rs. 25,000/- per month from August, 2021 however the same was never paid. Accordingly allegation of cheating and misappropriation has been made against the accused petitioners.

5. It is submitted by learned counsel appearing on behalf of the petitioners that the matter is purely of civil in nature and transaction of the payment of the remaining amount i.e., to the tune of Rs. 94,710/- which has been already received by the Complainant from Surji Agro Foods Pvt. Limited as evident from the cheque details and the acknowledgment given by the Complainant dated 11.03.2022 and 12.03.2022,



respectively. It is further submitted that on the basis of the same, both the parties have filed a compromised petition before the Court of Learned Judicial Magistrate, Saran at Chhapra dated 19.04.2022 i.e., annexure-4 to the present petition, in terms of which it has been stated that the amount in dispute has been received by the Complainant and accordingly both the parties have settled the case and no witness is thus ready to record his evidence before the Court. It is lastly submitted that since the dispute being purely civil in nature and relates to a purely private dispute of the Complainant vis-a-vis the company, the continuance of the proceeding thus becomes abuse of the process of law and thus the present application is fit to be quashed.

6. Considering the aforesaid facts and circumstances of the case and the fact that the petitioners have already returned the alleged amount and joint compromise petition has already been filed in the Court below i.e, annexure-4 to the petition, continuation of criminal proceedings against these petitioners would amount to abuse of the process of law.

7. Accordingly, in order to secure the ends of justice and to prevent the abuse of process of court, the order dated 28.01.2022 passed by the Court of Learned Judicial Magistrate,



2nd Class, Saran at Chhapra in Complaint Case No. 3202 of 2021
(Enquiry No. 014/2022) is hereby quashed with respect to these
petitioners.

8. Accordingly, this quashing application is allowed.

(Prabhat Kumar Singh, J)

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