

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84775 of 2023

Arising Out of PS. Case No.-282 Year-2022 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

=====

Sushil Kumar Son of Sri Dinesh Kumar Singh Resident of Village - Amir
bigha, P.O.- Kaler, P.S.- kaler, District- Arwal, PIN -824127

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arun Kumar Singh S/o Rajendra Prasad Singh Resident of Mohalla - Surya
Mandir Road, Shahpur, P.O - Aurangabad, P.S.- Aurangabad, District -
Aurangabad, Bihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 08-02-2024 1. Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The learned counsel for the petitioner submits that
a purely civil dispute has been given a criminal colour. It is next
submitted that there was an agreement in between the O.P. No.2
and the petitioner with respect to commencing a business as
detailed in the complaint, but for some reason the business
could not commence as such it cannot be alleged that the
petitioner committed cheating with the O.P. No.2.

3. The learned APP for the State vehemently rebuts
the submission of the learned counsel for the petitioner and
submits that from bare perusal of the allegation as alleged in the
complaint it would manifest that the O.P. No.2 alleges that an



amount of Rs.9,40,000/- was transferred in the account of the petitioner on various dates in between 03.06.2017 to 19.04.2018 and thereafter an amount of Rs.1,60,000/- was also given to the petitioner, but then the work never commenced and nor the money was returned as such the O.P. No.2 was cheated.

4. The learned APP further submits that had there been an agreement in between the O.P. No.2 and the petitioner for commencing a business in that event the agreement would have been part of the quashing application, but then agreement has not been brought on record which amply demonstrate that the petitioner falsely assured him of starting a business.

5. The learned APP next submits that if what has been submitted by the learned counsel for the petitioner is true that the money was deposited in the account of the petitioner by the O.P. No.2 in pursuance of an agreement in that event he can raise all the issues at the time of framing of charge, as the Court has wider jurisdiction to appreciate facts of the case in its legal perspective.

6. The learned counsel for the petitioner at this stage seeks permission to withdraw the quashing application with liberty to raise all issues at the time of framing of charge.

7. Permission is accorded.



8. Accordingly, the quashing application is dismissed
as withdrawn with the aforesaid liberty.

(Satyavrat Verma, J)

Prakash Narayan

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

