

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21147 of 2023

Arising Out of PS. Case No.-248 Year-2016 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

Chhunu Jee @ Ram Dayal Prasad Son Of Radhe Shyam Resident Of
Sanjay Nagar, Road No.10, Near Bigrapur, P.S. - Jakkanpur, Buddha
Colony, Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Arun Kumar Gupta Son Of Shri Ramesh Prasad Proprietor Of M/S
Mayukh Enterprises, Resident Of Village - Shastri Chowk, Dighi
Road, P.S. - Nagar, District - Darbhanga

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Y.C. Verma, Sr. Advocate Mr.Adarsh Singh, Advocate
For the State	:	Mr.Jai Narain Thakur. APP
For the O.P. No. 2	:	Mr.Pintu Kumar Patel, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 09-07-2025

Heard Mr. Yogesh Chandra Verma, learned senior coun-
sel appearing for the petitioner and Mr. Pintu Kumar Patel, learned
counsel for the opposite party no. 2.

2. This application has been preferred under section 482
of the Code of Criminal Procedure (in short, the 'Cr.P.C.') as to
quash the order taking cognizance dated 20.07.2018 passed by
learned Additional Chief Judicial Magistrate, Darbhanga in Com-
plaint Case No. 248/2016, whereby learned court found *prima fa-*
cie case under section 409 & 420 of the I.P.C. against the peti-
tioner for issuance of summon.



3. The prosecution case in brief, speaks that complainant for his business of printing asked the accused/petitioner to supply printing machine. The complainant alleged that for installation of the said machine, the complainant deposited Rs. 3,49,650/- in the account of the accused persons through bank draft. Thereafter, the machines were installed after two months, but only after three days, the machines went out of order. The complainant further alleged that the accused persons including petitioner assured the complainant to give a new machine or return the money within 30 days, but, on 18.12.2015, the accused persons denied to return the said money to the complainant. Hence, the complainant has filed the complaint case.

4. It is submitted by Mr. Yogesh Chandra Verma, learned senior counsel appearing for the petitioner that from narration of complaint itself, the grievance of the petitioner is fit to be raised before the court of consumer forum. It is submitted that admittedly, the machine in issue was installed, but as some technical issue was noticed, which was not redressed within time or replaced with new one, as alleged, present criminal complaint was lodged. It is submitted that no *prima facie* case *qua* offences punishable under section 409 and 420 of the Indian Penal Code (in short, the 'I.P.C.') appears to be made out of narration as set out through



complaint petition *qua* petitioner/accused persons.

5. Mr. Pintu Kumar Patel, learned counsel while appearing on behalf of the opposite party no. 2, could not disputed the submissions as advanced by Mr. Verma.

6. In view of the aforesaid, he seeks liberty to approach before the concerned consumer forum.

7. Considering the aforesaid, the order taking cognizance dated 20.07.2018 passed by learned A.C.J.M., Darbhanga in connection with Complaint Case No. 248/2016 is hereby quashed/set aside with liberty to the opposite party no. 2 to approach before appropriate consumer forum, as submitted aforesaid.

8. Accordingly, this application stands allowed.

9. Let a copy of this judgment be sent to the concerned learned trial court forthwith.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2025
Transmission Date	10.07.2025

