

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50873 of 2015

Arising Out of PS. Case No.-1391 Year-2013 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

Arindam Goswami, son of Sri Taradas Goswami, resident of Plot No.14B/7, S.C. Sarani, Serampur, P.S.- Serampur, District- Hoogli (W.B.). Presently posted as Project Manager, Simplex Infrastructure Limited, Camp B.T.P.S. Begusarai.

... .. Petitioner

Versus

1. State Of Bihar
2. Dheeraj Kumar, son of Sri Subhash Chandra Singh, resident of village- Makardahi, P.S.- Ulao, District- Begusarai.

... .. Opposite Parties

Appearance :

For the Petitioner/s :	Mr. Manoj Kumar Singh, Advocate
For the Opposite Party/s :	Mr. L.K. Sharma, APP
For the Opp. Party No.2 :	Mr. Shubhesh Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

9 21-04-2025

Heard the parties.

2. This application has been filed for quashing the order dated 20.03.2014 passed by the learned Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No.1391 of 2013, by which the learned Magistrate has taken cognizance against the petitioner for the offence under section 403 of the Indian Penal Code.

3. As per the complaint petition, the complainant is the proprietor of a company which used to supply wood to a company namely, Simplex Infrastructure Company. The petitioner is working as Project Manager in the



aforesaid company. It has been alleged that the complainant used to provide wood to the petitioner company, for which receipts were being issued in favour of the complainant. It has been alleged that on 05.11.2012 and 13.12.2012, upon instructions from petitioner, the complainant had supplied wood of Rs.1,67,739/- to the petitioner company but in spite of repeated request, the payments have not been made to the complainant. Accordingly, the present complaint case has been filed by the complainant.

4. From the records, it appears that on the basis of oral evidence, the cognizance has been taken against the petitioner and others. Further, the complainant has not been able to produce any document in support of the fact that the petitioner company i.e. Simplex Infrastructure Limited has given any contract to the complainant. Since the complainant was running wood business, it is reasonable to expect that proper document/receipt in lieu of orders received would be maintained. It is well known that any Company which awards some work to a contractor issues a work order. There is no work order/requisition with the complainant though he was given ample opportunity to produce the same.

5. Mr. Pandey, learned counsel for the



complainant has submitted that the case can proceed on the basis of the materials available on record i.e. oral evidence. However, in my opinion when there is not a single chit of paper in support of award of contract and the supplies made, the prosecution of the petitioner cannot be allowed to continue.

6. In my opinion, it is a *mala fide* prosecution in which the petitioner is being harassed by the complainant. Accordingly, this application is allowed. Consequently, the order taking cognizance dated 20.03.2014 passed by the learned Judicial Magistrate, 1st Class, Begusarai, in Complaint Case No.1391 of 2013 is hereby quashed.

(Sandeep Kumar, J)

pawan/-

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

