

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10118 of 2026

Arising Out of PS. Case No.-5821 Year-2024 Thana- PATNA COMPLAINT CASE District-
Patna

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Devendra Kumar Mishra @ Deo Mishra S/o- Sudhakar Mishra Resident of
Near Malahi pakri chowk P.S- Kankarbagh District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. M/s Pawanand Marketing through its Proprietor Sri Pawan Kumar R/v-
Lohiya Nagar Ps- Patrakar Nagar Dist- Patna

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr.Anil Kumar Singh No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 12-03-2026 Heard Mr. Rohan Kumar, learned counsel appearing

on behalf of the petitioner and Mr. Anil Kumar Singh No. 1,

learned APP appearing on behalf of the State.

2. The petitioner apprehends his arrest in connection
with Complaint Case No. 5821(C) of 2024 registered under
Sections 406, 420 and 409 of the Indian Penal Code.

3. As per the allegation made in the complaint, the
complainant and the petitioner had engaged in a business
relationship since 2016 and they were well acquainted with each
other. The complainant carries on business of pet food products
under the name M/S Pawanand Marketing as a wholesaler of
pedigree items, while the accused, Gajendra Kumar Mishra,



operates a retail business under the proprietorship firm Pets World. Both parties maintained cordial business relations and conducted transactions in good faith until August 2021. Thereafter the complainant started delaying payments, and as per the complainant's ledger an amount of Rs. 4,51,335.07/- remained outstanding from the last financial year. Despite issuance of a legal notice demanding payment, the said amount was not cleared, which lead to the institution of the present case.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and he has falsely been implicated in the case. The criminal proceedings arising out of Complaint Case No. 5821(C) of 2024, in which cognizance was taken under Sections 406 IPC, have been initiated without proper appreciation of facts and in misuse of the criminal process. The petitioner had regularly made payments to the complainant and his Market Representative through both cash and online modes, however, the complainant has allegedly made false and misleading claims and issued fabricated bills, not only in relation to the petitioner but also with other shopkeepers. Despite repeated requests by the petitioner for production of both his ledger and the company's official ledger, as well as, adjustment of amounts relating to



sales returns, the complainant failed to furnish the same and allegedly threatened the petitioner. The complainant had similar disputes with other traders, due to which the company ultimately terminated his dealership. The petitioner points out that the complainant himself admitted certain outstanding figures in the complaint petition, while several payments made by the petitioner during the year 2022, though acknowledged in the complaint, were not reflected in the ledger. The bills were raised for goods that were never received by the petitioner. The petitioner asserts his willingness to settle the matter on the basis of the company's official ledger after due adjustment of returned goods, contending that the dispute arises out of a contractual business transaction and is purely civil in nature, for which a criminal proceeding under Section 406 is not maintainable. The matter primarily relates to monetary transaction between the parties and for amicable settlement of dispute between the parties outside the Court, the matter be referred for mediation.

5. *Per contra*, learned APP appearing on behalf of the State submitted that a chance be given to the parties for amicable settlement outside the court.

6. Learned counsel appearing on behalf of the petitioner, on instructions, submitted that the petitioner has



agreed to appear before the learned District Court at 10:30 A.M.
on 24.03.2026.

7. Heard the parties

8. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the F.I.R., I am of the opinion that an opportunity is required to be given to the parties to settle their score amicably outside the Court.

9. In this regard, I find it apt to take note of the observation made by the Apex Court in case of ***Paramjeet Batra v. State of Uttarakhand*** reported in ***(2013) 11 SCC 673***, in which, the Apex Court in paragraph no. 12 has held as follows:

"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."

(emphasis supplied)

10. The Apex Court has reiterated the aforesaid



proposition in recent judgment of *S. N. Vijayalakshmi & Ors. vrs. The State of Karnataka and Anr.* reported in (2025) SCC Online SC 1575.

12. The petitioner has willingly desired to appear before the learned District Court on or before 24.03.2026, so that the matter can be referred to the District Mediation Centre.

13. Learned District Court is directed to issue notice to O.P. No.2 and take necessary steps to refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties to give effect to “Mediation for the Nation 2.0”.

14. Learned Mediator of the District Mediation Center concerned, upon appearance of the parties, shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of three months, till then, no coercive action shall be taken against the petitioner in connection with the aforesaid case.

15. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, in light of the law laid down by the Apex Court as referred hereinabove, the petitioner is required to be released on pre-arrest bail on such terms and



conditions as the learned District Court deems it fit and proper.

16. In case of failure on the part of the petitioner to appear on 24.03.2026 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner shall automatically lose its force.

17. In case, it is deliberate on the part of the complainant to reconcile, then in that case, the interim protection granted to the petitioner shall continue and the trial shall proceed in accordance with law.

18. In case, the parties fail to reconcile, then in that case, parties may avail appropriate remedy. Then also, petitioner is directed to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

19. If both the parties arrive at amicable settlement, then they must withdraw the criminal cases, if any, which they have lodged against each other.

20. With aforesaid direction and observation, the present application stands disposed of.

(Purnendu Singh, J)

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