

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19714 of 2020

Arising Out of PS. Case No.-2040 Year-2010 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Manish Singh @ Manish Kumar Singh Son Of Bhola Nath Singh Proprietors
B.S. Engineers Lakshmi Chamber C-159/210, Narayan Industrial Area,
Phase-I, P.S.-Naryana, District-South West Delhi, New Delhi-110028.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Raj Kishore Singh Son Of Late Ram Udgar Singh Owner R.K. Engineering Corporation, Resident Techno Point, Gali, P.S.-Tilka Manjhi, District-Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Sumit Kumar Jha, Advocate Ms. Rakchika Shekhar, Advocate
For the Opposite Party/s :		Mr. Mohammed Arif
For the O.P. No. 2	:	Dr. Manoj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 29-01-2026 Heard the learned counsel for the petitioner, learned
APP for the State and the learned counsel for the OP No. 2.

2. This application has been filed for quashing the order dated 15.09.2018 filed on behalf of the petitioner under Section 245 of Cr.P.C. for discharge of accused in Complaint Case No. 2040 of 2010 instituted for offence under sections 406, 420, 467, 468, 471 and 384 of the I.P.C. on the complaint of Opposite Party No. 2 which was rejected by Learned J.M. 1st Class, Bhagalpur.

3. The prosecution case in brief is that the



complainant entered into an agreement with Bihar State Ward Board, Patna and vide letter dated 19.04.2007 bearing Letter No. 891, was directed to supply 175 H.P.C.F. Diesel Pump sets for an amount of Rs. 37,68,760/-. The petitioner was allegedly known to the complainant and, upon hearing the same, offered to supply the commodities at a 15% profit. Subsequently, a letter was issued to him. The petitioner reportedly supplied the majority of the commodities but failed to supply items worth Rs. 3,00,000/-, due to which the complainant had to meet the demands. Later, the petitioner assured the complainant that he would pay the profit money and the dues, but he did not do so. The complainant then filed the instant case alleging non-payment of Rs. 9,70,000/-.

4. The learned counsel for the petitioner submits that a perusal of the complaint shows that this is a civil dispute arising out of the understanding between the petitioner and the complainant. It is further submitted that the complainant has acknowledged that the petitioner supplied the majority of the commodities as agreed, which reflects the petitioner's bona fide intention. The counsel further submits that the complainant is trying to give a criminal color to the matter in order to exaggerate its seriousness, and is attempting to coerce the



petitioner into paying money through this criminal case.

5. The learned counsel for the petitioner further submits that a review of the complaint and witness statements will show that no offences under Sections 406, 417, and 419 of the Indian Penal Code are made out. It is also clear that the petitioner and the informant had a business relationship, during which the informant supplied construction materials to the petitioner for the government's toilet construction scheme. The petitioner submits that the entire case of the prosecution is based on false, concocted, and fabricated claims.

6. The learned counsel for the petitioner further submits that even if the allegations made by the informant are taken at face value, the ingredients of the offence under Section 406 IPC are not met in this case. It is, therefore, submitted that the criminal proceedings against the petitioner amount to an abuse of the process of law, and as such, the proceedings and the impugned order cannot be sustained.

7. Relying on the supplementary affidavit, the learned counsel for the petitioner has submitted that before filing the present complaint, which was registered as Complaint Case No. 2040 of 2010, the petitioner had earlier filed a complaint against the informant under Section 138 of the Negotiable Instruments



Act, which was registered as Complaint Case No. 1733 of 2010 before the Chief Judicial Magistrate, Bhagalpur. He further submits that the informant issued two cheques to the petitioner for payment: one cheque bearing Cheque No. 025748 dated 15.05.2010 for Rs. 6,00,000/-, and another cheque bearing Cheque No. 025749 dated 22.05.2010 for Rs. 2,48,000/-. After receiving the cheques, the petitioner presented them to the bank, but they were dishonoured due to insufficient funds. After this, the petitioner issued a legal notice to the informant as required under the law. When the informant failed to make the payment, the petitioner filed the aforementioned case (Complaint Case No. 1733 of 2010) under Section 138 of the Negotiable Instruments Act along with Sections 406 and 420 of the IPC.

8. The learned counsel for the petitioner further submits that in response to the criminal case filed by the petitioner, the informant, annoyed by the legal action, filed the present complaint, which is based on false and fabricated claims. However, the learned court below, without properly considering the facts and applying its judicial mind, took cognizance of the case and issued summons to the petitioner in a routine manner.

9. In support of his submission, the learned counsel



for the petitioner has relied upon a judgment of the Hon'ble Supreme Court passed in the case of *State of Haryana & Ors v. Bhajan Lal & Ors, 1992 Supp (1) SCC 335* and has submitted that the present prosecution is a mala-fide one and the same is nothing but an abuse of the process of the court.

10. Per-contra, the learned APP for the State and the learned counsel for the O.P. No. 2 have opposed the application of the petitioner.

11. On careful examination of the materials available on record, this Court finds that the allegations against the petitioner are *mala-fide* and the present prosecution has been launched only to wreak vengeance upon the petitioner, especially in light of the prior criminal case filed by the petitioner under Section 138 of the Negotiable Instruments Act (Complaint Case No. 1733 of 2010) against the informant.

12. Considering the aforesaid facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in the case of *Bhajan Lal (supra)*, the application stands allowed.

13. Accordingly, the impugned order dated 15.09.2018 passed by the learned Judicial Magistrate, 1st Class, Bhagalpur and all the consequential proceedings arising out of



the Complaint Case No. 2040 of 2010 are hereby quashed.

14. Pending application(s), if any, shall also stand disposed of.

(Sandeep Kumar, J)

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