IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11071 of 2018

CNR No. BRHC010635022018

Arising Out of PS. Case No.-35 Year-2012 Thana- FORBESGANJ District- Araria

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Pawan Kumar S/o R.K. Sahu, aged about 42 Years , R/o 12 Waterloo Street, second Floor , Room No. 10 Kolkata. At present P.S.- Forbesganj, District-Araria.

... ... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Department Of Law And Justice Government Of Bihar Old Secre
2. Kedar Sharma S/o Late Pitamber Sharma Serving the Biscomaun, Residing at Prof. Colony Begusarai Regional officer Biscomanun Araria.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mrs. Rishika Jha
Mr. Gajendra Pratap Singh
For the Opposite Party/s : Mr. Jharkhandi Upadhyay

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

3 28-10-2026 Heard the learned counsel for the petitioner and learned APP for the State. None appears on behalf of the opposite party no. 02 despite valid service of notice.

2. This application has been filed on behalf of the petitioner for quashing the order dated 12.11.2014 passed by the learned Chief Judicial Magistrate, Araria in connection with Forbesganj P.S. Case No. 35 of 2012.

3. The prosecution case, in brief, is that the petitioner had business relations with Kedar Sharma, the then Regional Officer of BISCOMAUN, Araria, who is the employer of the

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informant. According to the informant's fardbeyan, the cold storage of BISCOMAUN at Araria had been leased to the petitioner under a deed of lease executed between the petitioner and BISCOMAUN. It is alleged that the petitioner failed to pay certain rental dues in respect of the said cold storage, which led to the institution of Forbisganj P.S. Case No. 35 of 2012 dated 15.01.2012.

4. It has been submitted by the learned counsel for the petitioner that the petitioner is an innocent person and has been falsely implicated in the present case, which arises out of a purely commercial and contractual dispute between the parties. She further submits that from the very first day of the lease, the informant has created various obstacles and impediments and in such situation, the operation of the cold storage was not workable and therefore, the circumstances leading to the dispute cannot be attributed to the petitioner alone.

5. Learned counsel for the petitioner further submits that even if the allegations made in the First Information Report are taken at their face value, no criminal offence is prima facie made out against the petitioner. A mere breach of contractual obligations or failure to pay the alleged outstanding rental amount does not, by itself, constitute criminal breach of trust or

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any other criminal offence unless the essential ingredients of the alleged offence are independently established. In the absence of the essential ingredients of the alleged offences, the continuation of the criminal proceedings would cause undue harassment to the petitioner and amount to an abuse of the process of law. She also submits that there is an arbitration clause also.

6. In support of his submissions, learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court passed in the case of ***State of Haryana v. Bhajan Lal reported in 1992 Supp (1) SCC 335***.

7. Learned APP for the State has opposed the application of the petitioner and has supported the impugned order. He further submits that even if there is an arbitration clause, criminal case can be made out from the facts of the case.

8. I have considered the rival submissions and perused the materials on record. In ***State of Haryana v. Bhajan Lal (Supra)***, the Hon'ble Supreme Court has held that criminal proceedings may be quashed where the allegations in the FIR, even if accepted in their entirety, do not prima facie disclose the commission of any offence.

9. In the present case, the allegations primarily relate to the non-payment of lease rentals arising out of a contractual

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relationship between the parties and the civil dispute has been given a color of criminal case. If there was any rent due as per the agreement between the petitioner and the BISCOMAUN then the BISCOMAUN should have initiated a proper civil proceeding for recovery of the same. It is settled law that a mere breach of contract does not constitute a criminal offence unless the essential ingredients of the alleged offence are made out.

10. In view of the aforesaid discussion, this application is allowed.

11. Accordingly, the order dated 12.11.2014 passed by the learned Chief Judicial Magistrate, Araria in connection with Forbesganj P.S. Case No. 35 of 2012 and all consequential proceedings arising therefrom, are hereby quashed.

(Sandeep Kumar, J)

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