IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25566 of 2022

Arising out of PS. Case No.-1549 Year-2017 Thana- SAMASTIPUR COMPLAINT CASE District- Samastipur

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Naresh Kumar Agarwal, Son of Late Chiranjee Lal Agarwal, Resident of Village - 16, Ganesh Chandra Avernue, 6th Floor, P.S.- Bowbazar, Kolkata, 700013, West Bengal

... ... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Renu Devi, W/o Shri Kanhaiya Kumar Gupta, Proprietory Maa Bhawani Steel, Muktapur Railway Crossing, P.S.- Mathurapar O.P, Wasrinagar, Distt.- Samastipur, Bihar 848133.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Brajesh Sahay, Advocate
		Mr. Amit Narayan, Advocate
For the State	:	Mr. Umesh Lal Verma, APP
For the Complainant	:	Mr. Uma Shankar Singh, Advocate
		Mr. Dilip Kumar Roy, Advocate
		Ms. Rekha Ranjan Prasad, Advocate
		Ms. Sonia Narayan Sinha, Advocate
		Mr. Vishal Kumar, Advocate
		Mr. Abhishek Aryan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANSUL

ORAL JUDGMENT

Date : 11-03-2026

Heard Mr. Brajesh Sahay, learned counsel assisted with Mr. Amit Narayan, learned counsel for the petitioner, Mr. Uma Shankar Singh, learned counsel assisted with Mr. Dilip Kumar Roy, learned counsel for the complainant and Mr. Umesh Lal Verma, learned Additional Public Prosecutor.

2. Petitioner seeks quashing of the order of cognizance dated 20.07.2018 passed by learned Additional Chief Judicial

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Magistrate-III, Samastipur and subsequent proceedings in Complaint Case No. 1549 of 2017 for the offences under Sections 406 and 420 of the Indian Penal Code.

3. The prosecution case is that the complainant used to deal in business of materials of house of construction and on 27.04.2014 the petitioner and the complainant agreed for purchase cemented asbestos at Maa Bawani Steel shop on certain terms and conditions. It is further alleged that the complainant paid Rs. 39,76,751/- to the petitioner but the petitioner/company supplied materials (asbestos) to the complainant of worth Rs. 28,04,085/-. The petitioner and his company failed to supply asbestos of worth Rs. 11,72,666/- and sent a charge of Rs. 63,627/- to the complainant and the amount of Rs. 11,09,039/- was left to be paid for which the complainant demanded her money back but he did not pay the same, as such, the present complaint has been lodged.

4. Learned counsel for the petitioner submits that substantial amount of Rs. 28,04,085/- has already been paid to the complainant and the dispute remains with regard to payment of Rs. 11,09,039/- therefore, the case under Sections 406 and 420 IPC is not made out.

5. In support of his submission, learned counsel for the petitioner has placed reliance on the judgment of Hon'ble Supreme

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Court rendered in the case of ***Hridaya Ranjan Pd. Verma & Ors. vs. State of Bihar and Anr*** *reported in* ***(2000) 4 SCC 168***.

6. Learned counsel for the complainant as well as learned Additional Public Prosecutor for the State has vehemently opposed the prayer for quashing of the impugned order of cognizance dated 20.07.2020.

7. In that view of the matter, this Court thinks that there is nothing in the complaint showing ingredients of Section 406 and 420 IPC, thus, the dispute requires a Money Suit.

8. Considering the facts and circumstances of the case as well as aforesaid judicial pronouncements, the order of cognizance dated 20.07.2018 passed by learned Additional Chief Judicial Magistrate-III, Samastipur and subsequent proceedings, if any, in Complaint Case No. 1549 of 2017 is quashed so far as the petitioner is concerned.

8. Accordingly, the present petition is allowed.

9. The complainant is at liberty to exercise other remedies available in accordance with law.

(Ansul, J)

Vikash/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	
Transmission Date	

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