

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

ORDER

M.K. Jain. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 715/2005

3

Date of Order: August 31, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Tribhuvan Gupta, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. N.K. Rastogi, for the non-petitioner No.2.

BY THE COURT;

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner seeks quashing of FIR No. 335/2005 dated 21-6-2005, Police Station, Pratap Nagar, Bilwara for the offences under Sections 406 and 420 IPC.

I have heard learned counsel for the parties and carefully gone through the FIR.

From the averments made in the FIR in question, it is clear that the petitioner purchased certain spare parts from the non-petitioner No.2 making the non-petitioner into a belief that he will pay the amount for the purchase of those spare parts and

thereby, he with an intention to deceive the non-petitioner No.2 fraudulently and dishonestly, made the non-petitioner to believe that for the said spare parts, the petitioner would pay the sale price which he had no intention to pay and subsequently did not pay. These averments in the complaint prima facie show the intention of commission of the offence under Section 420 IPC by the petitioner..

So far as offence under Section 406 IPC is concerned, in the FIR, there is no averment of any entrustment of goods with the stipulation of return on demand.

Be that as it may, in my view, the FIR discloses commission of cognizable offence under Section 420 IPC and, therefore, it is not a fit case to quash the FIR.

The criminal miscellaneous petition is, therefore, dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs