

GAHC010143522013



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5886/2013

BRAHMAPUTRA GRIDEQUIP PVT. LTD. and 2 ORS
BRAHMAPUTRA DIMORIA, TAPATOLI, KAMRUP, ASSAM, PIN-782403, ALSO
AT 3RD FLOOR, 724 ULUBARI CHARALI, G.S. ROAD, GHY-7

2: ASHOK AGARWAL
DIRECTOR OF BHARHMAPUTRA GRIDEQUIP PVT. LTD. HOUSE NO.168
R.G. BARUAH ROAD
NEAR SUNDERPUR BUS STOP
GHY-5
ASSAM

3: SWETA AGARWAL
DIRECTOR OF BHARHMAPUTRA GRIDEQUIP PVT. LTD. HOUSE NO.168
R.G. BARUAH ROAD
NEAR SUNDERPUR BUS STOP
GHY-5
ASSAM

VERSUS

THE STATE OF MAHARASHTRA and ANR
REPRESENTED BY THE SECRETARY HOME, MUMBAI

2: RAYCHEM RPG PVT. LTD.
RPG HOUSE
463 DR. ANNIE BESANT ROAD
WORLI
MUMBAI-30
THROUGH ITS MANAGER LEGAL and INDIRECT TAXATION
MR. JITESH PATE

Advocate for the Petitioner : MD.ASLAM

Advocate for the Respondent : MR.J C BARMAN

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

19.09.2023

Heard Mr. G. N. Sahewalla, learned senior counsel assisted by Ms. K.

Bhattacharjee, learned counsel appearing for the writ petitioners. None has appeared for the respondents although the name of the learned counsel have been duly reflected in the Cause List.

This writ petition has been filed with a prayer to quash the proceedings registered as C.C.Case No.187/SW/2012 under Sections 415/417/418/420/120B of the IPC pending before the Worli Police Station, Mumbai, Maharashtra on the ground that the respondent No.2 had lodged the F.I.R./complaint raising a dispute which was purely of civil nature. The police case being C.C.Case No.187/SW/2012 was apparently registered on the basis of the undated F.I.R./complaint lodged by the respondent No.2 in the month of December, 2012.

Taking note of the ground urged by the petitioner's counsel that the F.I.R. does not disclose the ingredients of any cognizable offence, I have gone through the same and find that the dispute between the petitioners and the respondent No.2 was pertaining to the demand for refund of an amount of Rs.18,08,732/-, which according to the complainant/ respondent No.2, the petitioners had failed to refund even after cancellation of the purchase order for supply of PSC poles.

Mr. Sahewalla submits that during the pendency of this writ petition the dispute between the parties have been settled by paying a sum of Rs.10,00,000/-

(approx.) to the respondent No.2. The respondents' counsel are not present to deny and dispute the said assertion.

Be that as it may, Mr. Sahewalla further submitted that to adjudicate the remainder of dispute between the parties, notices for initiation arbitration proceeding have also been issued by the counsel for the respondent No.2 and therefore, there can be no element of doubt in this case that the dispute raised in the complaint/F.I.R. is nothing but a purely civil dispute.

After going through the materials available on record and on hearing the submission of Mr. Sahewalla this Court is also of the unhesitant opinion that there is no ingredient of an offence punishable under Sections 415/417/418/420/120B of the IPC in the complaint lodged by the respondent No.2. Rather, the dispute sought to be raised in the complaint filed by the respondent No.2 appear to be purely of a civil nature, in respect of which, civil proceedings have allegedly been initiated in the meantime.

In view of the above, this writ petition succeeds and is hereby allowed. The police case in the form of C.C.Case No.187/SW/2012 registered under Sections 415/417/418/420/120B of the IPC is hereby quashed and set aside. It is, however, made clear that it would be open for the respondent No.2 to avail all other legal remedies against the writ petitioners, as may be permissible under law, so as to enforce debts, if any, against the petitioners herein, as per the provisions of law.

Writ petition stands closed.

JUDGE

Comparing Assistant