

GAHC010030042024



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

Case No. : Crl.Pet./158/2024

FAROOQ @ UMAR FAROOQ AND 2 ORS
DIRECTOR OF SOUTHERN ARTISANS CRAFT CENTRE PRIVATE LIMITED,
HAVING ITS REGISTERED OFFICE AT SHED NO. 4,
NO. 151/A, METTAGILLI INDUSTRIAL AREA, MYSORE-570016,
KARNATAKA.

2: SAIRA BI @ SAIRA BIBI
DIRECTOR OF SOUTHERN ARTISANS CRAFT CENTRE PRIVATE LIMITED
HAVING ITS REGISTERED OFFICE AT SHED NO. 4

NO. 151/A
METTAGILLI INDUSTRIAL AREA
MYSORE-570016
KARNATAKA.

3: MOHAMMED HANEEF
DIRECTOR OF SOUTHERN ARTISANS CRAFT CENTRE PRIVATE LIMITED
HAVING ITS REGISTERED OFFICE AT SHED NO. 4

NO. 151/A
METTAGILLI INDUSTRIAL AREA
MYSORE-570016
KARNATAKA

VERSUS

ALTAF HUSSAIN LASKAR
S/O LATE TUNU MIA LASKAR,
R/O MADHURBOND, WATER WORKS ROAD,
P.O. AND P.S. SICCHAR DIST. CACHAR, ASSAM, PIN-788001

Advocate for the Petitioner : MR. N SHARMA, B K SINGHA, MR. B PEGU

Advocate for the Respondent : MR. A S TAPADER , MR M AHMED, MR. A M ALAMAN

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

17.12.2024

Heard Mr. N Sarma, learned counsel for the petitioners and Mr. A S Tapadar, learned counsel appearing for the sole respondent.

This is an application under Section 482 of the CrPC praying for quashing the Complain Case No. 220/2021 pending in the court of the learned Judicial Magistrate 1st Class, Silchar, Cachar.

The respondent was appointed a commission agent for the present petitioners. The respondent was to collect work from the State of Mizoram and other places and he was to receive commission to that effect.

The respondent has alleged that for executing works which he had collected for the present petitioners they have been paid huge amount of money. But, the respondent was not paid his commission. Therefore, he alleged that the present petitioners had cheated him.

Mr. Tapadar has submitted that the petitioners had the criminal intention since inception.

Mr. Sarma, on the other hand, submits that the respondent has filed this case because he did not receive any money from the petitioners. Mr. Sarma has further contended that the respondent should have filed a civil suit for recovery of money from the petitioners.

I have considered the submission made by the learned counsel for both sides.

The respondent and the petitioners worked together on the basis of agreements between them. If the respondent was not given his dues, he should have filed the suit for recovery of money in a civil court. Dishonest intention is the *sine qua non* of the offence of cheating. This court is of the opinion that the said aspect of the case is not available in the given circumstances.

There is no possibility of future conviction in this case because a civil matter has been given the colour on a criminal case. Allowing the criminal proceeding to continue before the trial court would be nothing but an abuse of the process of the court. Therefore, this court finds that this is a fit case for exercising the power under Section 482 of the CrPC.

For the aforesaid reasons, the Complain Case No. 220/2021 pending in the court of the learned Judicial Magistrate 1st Class, Silchar, Cachar is quashed and set aside.

The criminal petition is disposed of accordingly.

JUDGE

Comparing Assistant