

GAHC010250032019



2024:GAU-AS:11905

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

Case No. : Crl.Pet./1219/2019

ASHOK KR. JAIN
S/O KEWAL CHAND SERAWGI, R/O H/NO 34, P B ROAD, REHABARI, P.S.-
REHABRI, GHY-08, KAMRUP(M), ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
(NOTICE THROUGH THE PUBLIC PROSECUTOR, ASSAM)

2:PAWAN KUMAR GUPTA
C/O UNITED PHARMACEUTICALS
TOKOLABARI ROAD
RAILWAY GATE NO. 3
GUWAHATI-781001
KAMRUP(M)
ASSA

Advocate for the Petitioner : MR. B GOGOI, MR. A PHUKAN, MR. A CHETIA

Advocate for the Respondent : PP, ASSAM,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

29.11.2024

1. None appears for the petitioner on call. However, Mr. K. Baishya, learned

Additional Public for the State respondent.

2. By filing this criminal petition under Section 482 of the Cr.P.C., 1973, the petitioner has prayed for quashing the FIR dated 13.06.2019 registered as Bharalumukh P.S. Case No. 306/2019 under Section 420/406 of IPC.
3. The FIR is quoted herein below:-

“To,

The Officer in Charge, Bharalumukh Police Station,
Bharalumukh, Guwahati.

Sub: Non payment of loan paid by RTGS.

Respect Sir,

This is to inform you that I had paid Rs. 35,00,00.00 (Rupees thirty five lac only) to M/s Arihant Constructions, C/o National Electric Stores, H.B.Road, Machkhowa, Guwahati- 781009, Mob.No. 9435544817 & 9401593029, District-Kamrup (M), Assam by RTGS on 27.10.2015, against two security cheques.

Inspite of our several reminder and request Mr. Ashok Jain, S/o Kawal Chand Jain he had no returned the paid amount till date.

Accordingly, I had deposited on cheque bearing No. 119904 dated 19.12.2018 for Rs. 35,00,000.00 (Rupees thirty five lacs) as principal amount and another cheque No. 119905 dt. 19.12.2018 for Rs. 18,01,000.00 (Rupees eighteen lac one thousand only) both cheques were returned by parties bank M/s United Bank of India, A.T.Road, Guwahati.

Sir, I am facing lots of financial crises for my treatment and running my family for that only it is my humble request to do the needful for the realization of my principal and interest amount for which I had also send legal notice by our lawyer Mr. Kanhiya Lal Gupta by letter dated 05.01.2019 (four photo copies of legal notice enclosed) for the both dishonored cheques.

I will be highly obliged and grateful to you for the realization of my

principal and interest amount and takes necessary remarkable action on the party, so that in future no party can dishonored the cheque by taking it lightly in transaction.

Hope you will definitely look into the matter and will help me for the realization of the money. Awaiting for your favorable reply on the subject at the earliest.

Thanking you and assuring you our best services all the time.

Yours faithfully

Pawan Kumar Gupta".

4. A reading of the FIR and the statement therein, if everything is accepted to be correct, discloses the following facts:-
 - I. The informant paid an amount of Rs. 35,00,000.00 (Rupees thirty five lacs) to M/s Arihant Construction by RTGS on 27.10.2015 against two security cheques.
 - II. In spite of reminder, the accused petitioner has not returned the said amount till date.
 - III. Accordingly, said cheques were deposited, however, both cheques were returned by the Bank.
 - IV. In the aforesaid backdrop, the informant is facing financial crisis for his treatment and accordingly, it was requested to the Investigating Officer for realization of the principal and interest amount.
 - V. On the basis of aforesaid, police station case was registered.
5. Though the aforesaid Police Station Case as recorded hereinabove was registered, however, investigation was stayed by this Court under its order dated 21.10.2019. This Court after perusal of the material available on record and the case diary, is of the opinion that the entire dispute is non-payment of alleged

legally enforceable due and dishonour of cheque.

6. In view of the aforesaid, at best aforesaid allegation can be an offence under Section 138 of the Negotiable Instruments Act, 1881, and no material whatsoever as regards commission of offence under Section 420/406 of IPC is available.
7. Accordingly, the present criminal petition is allowed by setting aside and quashing the FIR dated 13.06.2019 registered as Bharalumukh P.S. Case No. 306/2019 under Section 420/406 of IPC.
8. Interim order, if any, stands vacated. LCR be returned back.

JUDGE

Comparing Assistant