

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.11096 of 2010

Arising Out of PS.Case No. 3528 Year- 2007 Thana -null District- PATNA

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1. M/S Sree Krishna International through its Proprietor Mr. Suneel Darshan
 2. Suneel Darshan son of Mr. Darshan Sabharwal, Proprietor, M/S Sree Krishna International Address At 132, Park Street-2, SVP Nagar, Andheri(West) Mumbai-400053.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sandeep Kumar Gupta S/O Late Swami Nath Gupta, Proprietor M/S Maa Janki International, Patna (Motion Picture Distribution), At 505 Gagan Apartment, Exhibition Road, P.S.-Gandhi Maidan, Dist.-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Advocate

For the State : Mr. Harendra Prasad, APP

For Opposite Party No.2 : Mr. Akash Chaturvedi, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 18-09-2015

The Petitioners seek quashing of the order of cognizance dated 3.7.2008 passed by the Chief Judicial Magistrate, Patna in Complaint case No.3528C of 2007.

The case of the Complainant is that he was a film distributor and transacted business with the present Petitioners for screening a certain film. He paid the agreed amount to the accused persons but the Reels, which the Petitioner supplied, were defective and hence he could not screen them and resultantly suffered a loss.

It has been submitted on behalf of the Petitioners that even conceding the allegations in the Complaint Petition at best

deficiency of service is made out in the facts of the case without any criminal overtones.

On the other hand, the Counsel for the Complainant submits that since the right from the start the agreement was drafted in such a manner that all the liabilities were fastened on him, it reveals criminal intent of the Accused and hence the Petitioners should be put on trial.

Having considered that the Complainant had himself entered into with an agreement knowingly in regard to his liability, I would not think that in such a situation the Petitioners should not be put on trial for having criminal intent from inception of the agreement. Further if at all the Complainant is aggrieved, he should approach the correct forum for redressal of his grievances.

Hence, the application is allowed and the proceeding including the order of cognizance dated 3.7.2008 passed by the Chief Judicial Magistrate, Patna in Complaint case No.3528C of 2007 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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