

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49098 of 2015

Arising Out of PS.Case No. -771 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. ESSEL UTILITIES Distribution Limited, a Company incorporated under the Companies Act, 1956, having its registered office at 513A, 6th Floor, Kohinoor City Mall, Kirol Marg, off LBS Marg, Kurla (West), MUMBAI- 400070 through its authorized representative namely Mr. Nilesh Mekel son of Shree Vasant Mekel aged about 41 years the authorized signatory of the Company.
 2. MUZAFFARPUR VIDYUT VITRAN LTD., FORMALLY KNOWN AS ESSEL VIDYUT VITRAN (MUZAFFARPUR) LTD, a Company incorporated under the Companies Act, 1956, having its office at Maripur Power House Office, near Circuit House, Muzaffarpur- 842001 (Bihar) through its authorized representative namely Mr. Sunil Kumar Thakur son of Shree Bisheswar Thakur aged about 46 years the authorized signatory of the Company.
 3. Mr. Ashok Govind Agarwal son of Mr. Govind Narayan Agarwal, Chief Executive Officer of ESSEL VIDYUT VITRAN (MUZAFFARPUR) LTD., having his office at 513A, 6th Floor, Kohinoor City Mall, Kirol Marg, off LBS Marg, Kurla (West), MUMBAI-400070.
 4. Mr. Ram Narayan Mundra, son of Mr. Narayan Mundra, Senior Vice President, Finance and Accounts of all utility, Commercial Task Force, M.C. Power, Mumbai.
 5. Mr. Rajiv Narendra Dholakia son of Mr. Narendra Dholakia, Director of ESSEL VIDYUT VITRAN (MUZAFFARPUR) LTD, having his office at 513A, 6th Floor, Kohinoor City Mall, Kirol Marg, Off. LBS Marg, Kurla (West), MUMBAI- 400070
 6. Mr. Sanjay Kumar son of Chandreshwar Prasad, Associate Vice President, Operation & Business Head of ESSEL VIDYUT VITRAN (MUZAFFARPUR) LTD, having office at Maripur Power House Office, New Circuit House, Muzaffarpur-842001(Bihar).
 7. Keshavan Mudaliar son of Mr. Ganeshan Mudaliar, Director of ESSEL VIDYUT VITRAN (MUZAFFARPUR) LTD, having office at 513A, 6th Floor, Kohinoor City Mall, Kirol Marg, Off. LBS Marg, Kurla (West), MUMBAI- 400070
 8. Mr. Neeraj Kumar son of Mr. Sunil Singh aged about 35 years, Senior Manager, Procurement of ESSEL VIDYUT VITRAN (MUZAFFARPUR) LTD, having office at Manipur Power House Office, Near Circuit House, Muzaffarpur-842001(Bihar).

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Asha Gupta, aged about 57 years, wife of Shri Ashok Kumar Gupta, Managing Director, Sonal Detective & Security Limited, having corporate office at Ranjan Path, RPS More, West Bailey Road, Danapur,

Post Office- Danapur Cantt. Police Station-- Rupashpur (Danapur),
District- Patna (Bihar).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aditya Prakash Sahay, Advocate
: Mr. Vikas Kumar, Advocate
: Mr. Surya Prakash Singh, Advocate

For the Opposite
Party No.2

: Mr. Vikash Kumar, Advocate

For the State

: Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 17-12-2015

By way of the present application filed under section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”), the petitioners seek quashing of entire criminal proceedings including the impugned order of cognizance dated 26.8.2015 passed by the learned Sub-Divisional Judicial Magistrate, Danapur in Complaint Case No.771(C) of 2015. By the aforesaid order dated 26.8.2015 cognizance has been taken under sections 406, 420 and 120B of the Indian Penal Code.

The prosecution case is based on a complaint made by the opposite party no.2 alleging, inter alia, that the complainant’s company has provided and deployed security guards to the petitioner no.2, a company incorporated under the Indian Companies Act, 1956, but it has avoided to pay an amount of rupees thirteen lakh twenty five thousand six hundred fifty nine only towards outstanding bills in relation to salary payable to the security guards and thereby the

petitioners in criminal conspiracy with each other have misappropriated the amount and committed criminal breach of trust.

At the outset, Mr. Aditya Prakash Sahay, learned counsel for the petitioners, has contended that in order to buy peace and due to intervention of the well wishers of both the parties, the matter has been amicably settled between the parties outside the court and, as such, the petitioners no.1 and 2 on their behalf and on behalf of other petitioners have made payment of the amount claimed by the complainant.

Learned counsel for the petitioners has contended that in terms of compromise arrived at between the parties, the petitioners have purchased a demand draft bearing no.062660 amounting to Rs.13,25,659/-only drawn in the name of complainant's company Sonal Detective and Security Ltd. The said demand draft has been issued by the Axis Bank Ltd. He has contended that the draft has already been handed over to the counsel for the opposite party no.2.

Mr. Vikash Kumar, learned counsel for the opposite party no.2, has supported the factum of compromise. He has submitted that in view of amicable settlement between the parties, the complainant does not want to proceed with the case any further. He has acknowledged before the Court that he has already received the aforesaid demand draft on behalf of the opposite party no.2. He has

contended that in view of the compromise arrived at between the parties, the complainant will have no further claim against the petitioners in relation to the subject matter of the dispute in the present case.

Regard being had to the nature of offence and the settlement arrived at between the parties, in my opinion, no useful purpose would be served by allowing the prosecution to continue, which may lead to insurmountable harassment, agony and painful to both the parties.

Accordingly, the entire criminal proceedings including the impugned order of cognizance dated 26.8.2015 passed by the learned Sub-Divisional Judicial Magistrate, Danapur, in Complaint Case No.771(C) of 2015, is hereby quashed.

(Ashwani Kumar Singh, J)

Md.S./-

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