

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 23073 of 2011

Arising out of P.S. Case No. -1715 Year- 2009 Thana -
Complaint District- PATNA

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1. Navin Mathur S/o Naresh Mathur the then Sales Manager, Bihar & Jharkhand, Nokia India Private Limited, D.N. 62, Mellinum City, Tower- B, Secotr-05, Salt Lake City, Kolkata, At Present, Regional Sales Manager., Nokia Siemens Networks, 7th Floor, Forum Mart, Plot No. 89(392) Unit-Iii, Kharabela Nagar, Bhubneshwar- 751001.
 2. Ms. Saurabh Tandon S/o Deepak Tandon, the then A.S.M, Bihar Nokia Siemens Networking, Ivth Floor, Lic Building, Patna, At Present Proprietor, Tandon Distributor, Ground Floor, Anand Bhawan, Badripura, Haldwani (Uttarakhand)- 263139.

.... Petitioner/s

Versus

1. The State of Bihar
2. Asim Kumar S/o Sri Ambika Prasad Singh Resident of Chintola, Police Station- Kadamkuan, District and Town- Patna. At Present Residing at C/o Ram Dhani Prasad Gupta, Renu Kutir, Kumar Colony, Naiyee Godown, Mararani Road, Police Station.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dayanand Singh, Adv.

For the Opposite Party/s: Md. A. Rahman, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 02-03-2015

The Petitioners seek quashing of the order of cognizance dated 15.09.2009 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1715(C) of 2009.

The case of the Complainant is that he had purchased a Nokia Mobile but after a while it developed some problem so he approached the service centre for updating the software but instead the accused persons somehow spoilt the

mobile. When the matter was taken up he was assured that he would be given a new mobile it was not exchanged and, hence, the present Complaint.

It has been submitted on behalf of the Petitioners that on the facts of the Complaint, evidently, at best if, at all, a deficiency of service is made out against the service provider and not a criminal offence.

Notices had been issued to the Opposite Party No. 2 but none appears on his behalf.

On going through the facts of the Complaint reproduced above, I would be inclined to accept the submissions raised on behalf of the Petitioners.

Hence, the entire proceeding as against all the accused persons including the order of cognizance dated 15.09.2009 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1715(C) of 2009 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J)

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