

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9426 of 2010

Arising Out of Complaint Case No. 288(C) Year- 2008 District- PATNA

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1. Mr. Ravindran Gandhi @ Gandhi Raveendran, S/O Sri Ramaswamy Gandhi, General Manager Wipro GE Healthcare Pvt. Ltd., A/1, Golden Enclave, Airport Road, Bangalore- 560017
 2. Mr. Ajay Kumar Singh, S/O Commandar Jagdish Narayan Singh, 404, Sri Srinivas Apartment, Hasmat Pet Road, Sikundrabad- 11, Andhra Pradesh
 3. M/S Wipro GE Healthcare Pvt. Ltd., A/1, Golden Enclave, Airport Road, Bangalore- 560017, through Mr. Venkataraman Raja @ V. Raja S/O Sri Subramanian Venkataraman, Managing Director Wipro GE Healthcare Pvt. Ltd.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Dr. Ajay Alok S/O Sri Gopal Pd. Singh R/O 132 B, S.K.Puri, Patna, Managing Director Of Indira Gopal Institute Of Medical Services Pvt. Ltd., B/2 Prafull Plaza, Makhania Kuan, P.S.- Pirbahore, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Avanish Kr. Singh, Adv.,
For the Opposite Party No. 2 : Mr. Ramakant Sharma, Sr. Adv.
For the State : Mr. U.S.P. Singh, A.P.P.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 18-09-2015

Heard learned counsel for the Petitioners and the State.

The Petitioners seek quashing of the order of cognizance dated 1.5.2008 passed by the Sub Divisional Judicial Magistrate, Patna, in Complaint case No. 288(C) of 2008

The case of the Complainant is that he had placed an order for a certain machine and on an understanding arrived at between the Complainant and the Petitioner No. 1, he advanced Rs.6,00,000/- through Cheque. The total price of the machine was 117 lacs which was to be installed in June, 2002. However, when the machine was installed, it

never functioned, and when he complained, he found that even though it was represented that the machine would be made in USA, Japan or China, but the fact was that it was delivered to the Complainant from Jaipur and Bangalore and the machine was manipulated. He thus complained that he had been put to substantial loss by the accused and, hence, he should be put on Trial.

The counsel for the Petitioner submits that even accepting the allegations in the Complaint petition, at best, it would make out a case of deficiency of service for which the Complainant has an alternative remedy of going to the Consumer Forum. Instead of approaching the Consumer Forum, he has come to the Criminal Court hoping that the dispute would be resolved expeditiously, even though such procedure is not legally permissible.

On the other hand, the counsel for the Complainant submits that since the Petitioners had cheated him and supplied a wrong machine, they should be put on Trial.

Since these are the questions which cannot be proved during Trial and it is at best a deficiency of service leaving no scope for Criminal case, the application is allowed and the Proceeding including the order of the order of cognizance dated 1.5.2008 passed by the Sub Divisional Judicial Magistrate, Patna, in Complaint case No. 288(C) of 2008, is hereby set aside without prejudice to the either of the Parties.

(Anjana Prakash, J)

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