

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15702 of 2010

Arising Out of PS.Case No. 2127 Year- 2007 Thana -null District- PATNA

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1. Rajesh Kumar Chamaria S/O Keshar Deo Chamaria, Proprietor Of M / S Pankaj Medicines, Pharmaceutical, Distributors, Jublee Well R/O P.S. Kotwali Distt. Munger

2. M /S Pankaj Medicines, Jublee Well Bekapur R/O P.S. Kotwali Distt. Munger, through its Proprietor Rajesh Kumar Chamaria

.... Petitioner/s

Versus

1. The State Of Bihar

2. Kashi Nath Pathak S/O Awadhesh Pathak, Manager, M / S Allied Carrier R/O S.P. Verma Road, Sahi Compound, P.S. Ghandhi Maidan, Distt. Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tarkeshwar Prasad Verma, Advocate

For the Opposite Party/s : Mr. M. Rab, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-10-2015

The Petitioners seek quashing of the order of cognizance dated 7.5.2008 passed by the court of Sri Vijay Kishore Choudhary, Judicial Magistrate, 1st class, Patna in Complaint case No.2127C of 2007.

The case of the Complainant is that he was the Manager of M/s Allied Carrier, S.P. Verma road, Patna and used to look to the business of transportation of goods within the State of Bihar and Jharkhand. He allegedly booked medicines through the Complainant's transport on 29.1.2007 but the medicines were not supplied to the consigner Pankaj Medicine by M/s Biological E. Limited. They also did not make good the amount covered under invoice amounting Rs.2,32,330/-.

It has been submitted that fact of the matter is that on 19.1.2007 and 29.1.2007 two consignments of medicines were booked for Munger through Allied carrier, Patna to Pankaj Medicine by Biological E. limited, Patna through carrier invoice No.1212 dated 30.11.2006 amounting to Rs.2,14,572/- and invoice no.1213 dated 30.11.2006 amounting to Rs.2,32,330/-. When he received a legal notice from the Complainant demanding refund of the money he clearly wrote to him that he had not received consignments which were booked through the Complainant's transport. The Petitioners also then sent a letter to the Manager Allied carrier, Munger on 20.4.2007, which was not received by them. In such circumstances it appears that the Complainant himself has misappropriated the medicines and thereafter filed this present Complaint as a defence.

On the last occasion notices had been issued to the Opposite Party No.2 but none appears on his behalf.

Having considered the background facts, I would be inclined to agree with the submissions so raised on behalf of the Petitioners. Hence, the application is allowed and the proceedings including the order of cognizance dated 7.5.2008 passed by the court of Sri Vijay Kishore Choudhary, Judicial Magistrate, 1st class, Patna in Complaint case No.2127C of 2007 is hereby set aside.

Narendra/-

(Anjana Prakash, J)

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