

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29765 of 2015

Arising Out of PS.Case No. -1932 Year- 2014 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

- =====
1. Pawan Bhasin, Son of K.K. Bhasin, Proprietor, E-Spectrum Medical Solutions, Having its registered Office at K-75, Udyog Nagar Industrial Area, Near Peera Garhi Chowk, P.S.-Mianawali Nagar, Delhi – 110041.
 2. Devesh Kumar @ Devesh Kumar Singh, Son of Shyama Prasad Singh, Sales Representative, E-Spectrum Medical Solutions, Having its registered Office at K-75, Udyog Nagar Industrial Area, Near Peera Garhi Chowk, P.S.-Mianawali Nagar, Delhi – 110041.

.... Petitioners

Versus

1. The State of Bihar
2. Dr. Dinesh Prasad Gupta, Son of Late Jagannath Prasad, Resident of Village – Rajopatti, Dumra Road, P.S. – Sitamarhi, District – Sitamarhi.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Awadhesh Kumar, Advocate.

For the Opposite Parties : Mr. Ajay Kumar No.2 (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 07-10-2015 Heard both sides.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

The complainant, a doctor alleged that he had talked with the petitioners who are sales representative of E-Spectrum Medical Solutions situated at Udyog Nagar Industrial Area, Near Peera Garhi Chowk, P.S.-Mianawali Nagar, Delhi for purchase of pre-owned C.T. Scan and M.R.I. machines. It was agreed that the aforesaid machines should not be older than 2½ years, but the machines were also installed after one year and the machines were

older than 2½ years. The petitioners are alleged to have cheated the complainant and committed criminal breach of trust by taking more than Rs. 85 lakhs.

Learned counsel for the petitioners submits that all the allegations made in the complaint petition, on the face of it are false and concocted. There was no written agreement between the company and the doctor-complainant. The doctor wishes to install pre-owned C.T. Scan and M.R.I. machines and, accordingly, the machines were installed. There was no agreement to install only 2½ years older machines. From perusal of Annexure-7 the e-mail sent by the complainant makes it amply clear that there was no such agreement and it is a case of deficiency in service and for that the complainant has already filed case before the State Consumer Disputes Redressal Commission, Patna. From the notice sent by the complainant, Annexure-8, it would appear that the machines were duly installed within nine months and the assertions of the complainant that the machines were installed after one year is falsified by the assertions made in the notice.

On the other hand learned counsel for the complainant as well as the learned APP vehemently opposed the prayer for anticipatory bail of the petitioners and submitted that the petitioners cheated the complainant. The petitioners provided 10

years older machines which are not functioning.

It appears that even after enquiry the learned counsel for the complainant did not furnish the detailed agreement for providing the machines. The complainant himself stated that he placed orders for pre-owned C.T. Scan and M.R.I. machines for installation in his *Jaanch-Ghar* at the rate agreed between the parties. The complainant has already filed a case before the State Consumer Redressal Commission for deficiency in service.

Considering the facts aforesaid, the petitioners above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in Complaint Case No. C-I/1932/2014, Subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Prabhat Kumar Jha, J.)

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