

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40655 of 2012

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1. Sumant Harshwardhan son of Sri Sachidanand Pandey, owner of 'Sudha Super', 'Harihar Chamber', Boring Road, Patna -1 presently residing at House No. 16, Lohanipur, P.S. Kadamkuan, District - Patna
 2. Smt. Shanta Devi wife of Late Vidyadhar Prasad Singh
 3. Ravi Ranjan Kumar son of Late Vidyadhar Prasad Singh
 4. Chitranjan Kumar Singh son of Late Vidyadhar Prasad Singh
 5. Shiv Ranjan Singh son of Late Vidyadhar Prasad Singh

All resident of village - Ghoswari, P.S. Bakhtiyarpur, District- Patna, presently residing at 62-A, Patliputra Colony, P.S.-Patliputra, District - Patna

... Petitioner/s

Versus

1. The State of Bihar
2. Jay Kumar Singh, Director, CECON Engineers India Pvt. Ltd., having its registered office at Bank Colony, St. Karen's School, Gola Road, Patna - 810503

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Advocate
: Mr. Aaruni Singh, Advocate

For the Opposite
Party No.2 : Mr. Bibhuti Prasad Pandey, Sr. Advocate
: Mr. Jagannath Singh, Advocate
: Mr. Nirbhay Prashant, Advocate

For the State : Mr. Uday Chand Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 30-04-2015 The present application under section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 9.8.2011 passed by the learned Judicial Magistrate, 1st Class, Patna in Complaint Case No.1609(C) of 2011 whereby finding a prima facie case to be made out against the petitioners for the offences punishable under sections 406 and 120B of the Indian Penal Code, the learned Magistrate had summoned the petitioners for trial.

2. Heard Mr Akhileshwar Prasad Singh, learned senior counsel for the petitioners and Mr. Bibhuti Prasad Pandey, learned senior counsel for opposite party no.2.

3. The opposite party no.2 Jay Kumar Singh, Director, CECON Engineers India Private Limited has filed altogether nine complaint cases vide Complaint Case Nos. 1608 of 2011, 1609 of 2011, 1610 of 2011, 1611 of 2011, 1612 of 2011, 1616 of 2011, 1617 of 2011, 1627 of 2011 and 1628 of 2011 of identical nature against the landlord of a property in dispute as well as different tenants running their shops in the disputed premises. The land owners in all the nine complaint cases filed by opposite party no.2 are petitioner nos. 2 to 5 of the present case, namely, Smt.Shanta Devi, Ravi Ranjan Kumar, Chitranjan Kumar Singh and Shiv Ranjan Kumar Singh. Another person who has been summoned to face trial in the present complaint case, namely, Sumant Harshwardhan is a tenant of one of the shops situated in the disputed premises in question.

4. It has been contended that out of the aforementioned nine complaint cases having identical allegations, three have already been quashed by reasoned orders passed by Hon'ble the Chief Justice on 16th April, 2015 in Cr.Misc.Nos. 42081, 42236 and 42464 of 2012 respectively.

5. Learned senior counsel for the respective parties have submitted that this application be also disposed of in terms of the aforementioned order dated 16th April, 2015 passed in Cr. Misc. No.42081 of 2012 whereby the proceedings in Complaint Case No.1627(C) of 2011 has been quashed.

6. The operative part of the aforesaid order dated 16th April, 2015 passed in Cr.Misc.No. 42081 of 2012 reads as under:-

“Therefore, this petition is allowed and the proceedings in complaint case no. 1627(C) of 2011, pending in the Court of Sri Krishna Kumar, Judicial Magistrate, Ist Class, Patna is quashed, subject to however condition that in case the Arbitrator, in the going on arbitration, makes an observation that the petitioners herein have resorted to any act of cheating, it will be open to the 2nd opposite party to submit a complaint.”

7. Accordingly, with the consent of the parties, this application is disposed of in terms of the aforementioned order dated 16th April, 2015. Consequently, the proceedings in complaint case No. 1609(c) of 2011 dated 15.6.2011 pending in the court of Judicial Magistrate, 1st Class, Patna is quashed, subject to condition that in case the Arbitrator, in the on going arbitration, makes an observation that the petitioners herein have

resorted to any act of cheating, it will be open to the 2nd opposite party to submit a complaint before the appropriate court in accordance with law.

(Ashwani Kumar Singh, J)

Md.S./-

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