IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.876 of 2005

Arising Out of Complaint Case 1942 Year- 2004 District- PURNIA

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1. Lafarge India Pvt. Ltd., a company incorporated under the Companies Act, 1956 having its Registered Office at Bakhtawar, 14th Floor, 229, Nariman Point, Mumbai – 400 021.
2. Mr. K. Swaminathan, son of Thyagarajan Kuppuswamy, Vice President – Sales, Lafarge India Private Limited, 101B, 1st Floor, Sunny Towers, 43, Ashutosh Choudhury Avenue, Kolkata – 700 019.
3. Mr. Sumit Chatterjee, son of Anup Kumar Chatterjee, Area Sales Manager, Lafarge India Pvt. Ltd.
4. Mr. Rajiv Prasad, son of J.N. Prasad, Area Sales, Manager, Lafarge India Private Ltd., D.N. Singh Road, Bhagalpur. 912 002.

.... Petitioner/s

Versus

1. The State of Bihar
2. Mr. Love Kumar, son of Harilal Saha since deceased carrying on business under the name and style of Kumar Agency from and at Jhanda Chowk, P.S. K. Hat, Distt. Purnea and residing at Navratan Hata, P.S. Distt. Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. Sanyal, Adv.
Mr. Amal Kumar Sinha
Mr. Naresh Dikshit
Mr. Manoj Kumar

For the State : Mr. C. Jawahar, A.P.P.

For the Opposite Party No. 2: Mr. Pankaj Kr. Sinha, Adv.
Mr. Kamal Kishore Jha, Adv.
Mr. Diwakar Sinha, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-09-2015

No one appears on behalf of the Petitioners.

The Petitioners seek revision of the order of cognizance dated 21.9.2005 passed by the Judicial Magistrate, Purnea, in C.A. No. 1942 of 2004.

The case of the Complainant is that he started doing business with the Petitioners in course of which he was required to give some blank Cheques. They were said to be kept by way of security and the transaction was to be completed after business dealings came to an end. However, the accused persons filled the Cheques and presented them before the Bank and tried to implicate him.

It appears from the petition filed here that the Complainant was sent a legal notice on 31.7.2004 with regard to the present dispute. The Branch Manager, SBI, A.D.B., Purnea, had informed the Company that the Complainant had detained the said Cheque for his own purpose while requesting for the closure of bank account by his letter dated 21.10.2003. A letter was issued by the Bank to the Complainant. On 2.9.2004, the authorized representative of the Company filed Complaint Case No. 4681/SS subsequently numbered as CC 1632 of 2004 in Mumbai, against the Complainant under Section 138 of Negotiable Instrument Act, in which, the Court took cognizance where the Complainant duly appeared. It was after the Complainant received summons from the Court at Mumbai, in October, 2004, he filed a Title Suit 209 of 2004 on 20.11.2004 for certain relief. It is also then that he filed the present Complaint on 31.12.2004. In such background of the case, evidently, the prayer was that the Proceeding be quashed, since the prosecution appears to have been lodged with intent to create a defence.

On the other hand, the counsel for the Complainant submits that since there was ample evidence to show that it was the Company which has misused the Cheques of the Complainant, they should be put on Trial.

Having considered the background facts of the case and other unimpeachable documents, the application is allowed and the Proceeding including the order of cognizance dated 21.9.2005 passed by the Judicial Magistrate, Purnea, in C.A. No. 1942 of 2004, is hereby set aside.

(Anjana Prakash, J)

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