IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 11655 of 2011

Arising out of P.S. Case No. -51 Year- 2008 Thana - Complaint District- PATNA

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1. Ritesh Choudhary Mentioned as Rupesh Chaudhary @ Rupesh Kumar in The Order of Cognizance of Learned S.D.J.M. Masaurhi, Patna Dated 24-11-09 S/o Ramesh Kumar Chaudhary Resident Of J.N. Rai Road, P.S.- Sahibganj Nagar, District- Sahibganj, State- Jharkhand.
2. Ramesh Kumar Chaudhary S/o Late Sital Prasad Resident of J.N. Rai Road, P.S.- Sahibganj Nagar, District- Sahibganj, State- Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vindhyachal Singh S/o Ramchandra Singh Managing Director, M/S Dhrupad Construction Pvt. Ltd. Lakhi Bag, Masaurdhi, P.S.- Masaurdhi, Dist. Patna.

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Rajesh Kumar Dubey, Adv.
For the Opposite Party/s: Mr. Dinesh Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL JUDGMENT
Date: 20-02-2015

The Petitioners seek quashing of the entire proceeding including the order of cognizance dated 24.11.2009 passed by the Sub-Divisional Judicial Magistrate, Masaurdhi, Patna in Complaint Case No. 51(C) of 2008.

The case of the Complainant is that he was the contractor of a certain construction company in course of which there was a business transaction with the accused persons who were suppliers of steel. At the initial stage of business the accused persons took some blank letter heads and blank papers of the Complainant's Company. In course of the business transaction he issued six cheques to the Petitioners. Subsequently, the accused requested for fresh cheques amounting to Rs. 14,50,000/-. In good faith he gave another set of cheques to the accused persons. He had apprehension that it would be used by the accused persons to withdraw the amount entered in one of the cheques and of two cheques he apprehended some foul play.

It has been submitted on behalf of the Petitioners that no doubt there were business transaction between the parties and fact of the matter is that they had supplied materials for around Rs. 12,00,000/- which the Complainant had received and subsequently of Rs. 10,23,000/-. One year before the present Complaint was filed the Petitioners had presented all the cheques issued by the Complainant but they were dishonoured on account of which Complaint Case Nos. 220 of 2007 & 229 of 2007 under Section 138 Negotiable Instrument Act against the Complainant was instituted. In order to create a defence with regard to the two cheques the present Complaint has been filed one year later. In the meanwhile, the present Complainant has also been convicted in the two Complaints.

On the other hand, Counsel for the Complainant submits that he had advanced huge amount of money to the accused persons who did not supply him materials. However, he is not in a position to dispute the fact that the two

Complaints against him had been filed under Section 138 Negotiable Instrument Act in which he has been convicted. However, he submits that an appeal has been filed.

Having heard learned Counsel for the parties and the narrative of the Complaint Petition, I am unable to convince that in the facts stated therein any criminal offence is made out. At best it appears to be a business transaction which had gone sour for whatever reason. Moreover, I am also inclined to hold that the present Complaint has been used as a short-cut method to extract undue advantage on account of the deteriorating relation-ship between them.

Hence, the application is allowed and the entire proceeding including the order of cognizance dated 24.11.2009 passed by the Sub-Divisional Judicial Magistrate, Masaurdhi, Patna in Complaint Case No. 51(C) of 2008 is, hereby, set aside.

The Application stands allowed.

(Anjana Prakash, J)

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