

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 25237 of 2012

Arising out of P.S. Case No. -1452 Year- 2009 Thana -null
District- PATNA

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1. M/S. Airtech Engineers (now known as M/s. Airtech Cooling Process Pvt. Ltd.) a company incorporated under the provisions of the Companies Act, 1956 having its office at 14/6, Near Mathura Road, Faridabad through its director, Lalit Kumar, Son of Sri Purushottam Lall.
 2. Lalit Kumar, Son of Sri Purushottam Lall, Ex-partner, M/s Airtech Engineers, now working as a Director of M/s. Airtech Colling Process (P) Ltd. 14/6, Near Mathura Road, Faridabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Hemant Kumar Das, Son of Sri Awadhesh Kumar Das, Resident of 504/A, White House Apartment, Budh Marg, Patna and Managing Director for M/s. H.K. Machines Pvt. Ltd. and M/s. Natural Dairy Pvt. Ltd. 225, Ashoka Place, Exhibition Road, P.S. Gandhi Maidan, Town & District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. R.R. Prasad, Adv.

For the Opposite Party/s : Mr. B. P. Singh, APP.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 10-04-2015

The Petitioners seek quashing of the order of cognizance dated 08.07.2010 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1452(C) of 2009.

The case of the Complainant is that he was dealing in milk projects with one of M/s Natural Dairy Pvt. Ltd. and had required refrigeration of his products. In course of this the Petitioners who had a refrigeration unit quoted a certain price for setting it up at Patna. He then deposited around Rs. 21,00,000/- . The Complainant is said to have advanced around Rs. 21,00,000/- for the setting up of the refrigeration units. However, it was not

done on time which caused him personal loss and, hence, the present Complaint.

It has been submitted that there is no dispute with regard to business dealings between the Petitioner and Complainant in pursuant to which the Petitioners were to set up a refrigeration plant. When there was a delay on account of unavoidable circumstances a petition before the Consumer Forum for deficiency in service was filed which is still pending.

Where the present Complaint is concerned it has been filed after a cheque of Rs. 50,000/- which was given by the Complainant to the Accused was dishonoured on account of which a legal notice was sent to him. Under these circumstances evidently no criminal offence is made out in the facts of the case.

Having gone through the Complaint Petition, I would be inclined to accept the submission so raised.

Hence, the proceeding as against all the accused including the order of cognizance dated 08.07.2010 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1452(C) of 2009 is, hereby, set aside.

The Application stands allowed.

However, this order shall have no bearing on the other proceedings.

Vikash/-

(Anjana Prakash, J.)

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