

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18177 of 2010

Arising Out of PS.Case No.2980 Year- 2009 Thana -null District- PATNA

1. Mohan Himatsingka Son Of Late Ram Jiwan Himatsingka, Director Shankar Motors Patliputra Industrial Area, Police Station Patliputra, District - Patna.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Gopal Sharan Mehta Son Of Late Ram Gyan Mahto Resident Of Village - Raghapur, Police Station - Bihta, District - Patna.

.... Opposite Party/s

With

Criminal Miscellaneous No. 17067 of 2012

Arising Out of PS.Case No.2980 Year- 2009 Thana -null District- PATNA

1. Mr. Animesh Narayan S/O Late Sitendra Deo Narayan Area Collection Manager, Tata Motors Finance Ltd, Then Office At K.D.Vihar , Opposite Luxmi Nurshing Home , Boring Canal Road, Near Rajapur Pul, Patna, At Present Posted As Branch Collection Manager, Tata Motors Finance Limited , 2nd Floor, Ozone Palaza, Behind 17 Degree Hotel , Bank More, P.S.-Bank More, Dhanbad

.... Petitioner/s

Versus

1. The State Of Bihar
2. Gopal Sharan Mehta Son Of Late Ram Gyan Mahto Resident Of Village - Raghapur, Police Station - Bihta, District - Patna

.... Opposite Party/s

Appearance :

(In Cr.Misc. No. 18177 of 2010)

For the Petitioner/s : Mr. Jitendra Prasad Singh, Advocate

For the Opposite Party/s : Mr. Binod Bihari Singh, APP

For Opposite Party No.2 : Mr. Amar Nath Singh, Advocate

(In Cr.Misc. No. 17067 of 2012)

For the Petitioner/s : Mr. Dayanand Singh, Advocate

For the Opposite Party/s : Mr. Upendra Kumar, APP

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 03-11-2015

The Petitioners seek quashing of the order of cognizance

dated 29.3.2010 passed by Smt. Noor Sultana, Judicial Magistrate, 1st class, Patna in Complaint case No.2980C of 2009.

The case of the Complainant is that he approached the Tata Motors Finance for taking car on loan and filled out the form at the instance of one Shashi Bhushan Singh. Subsequently since large amount of down payment was required he abandoned that transaction and went to Corporation Bank for obtaining a loan. The Bank issued a bank draft in favour of the dealer which he deposited before it and got the car. In between Tata Motors Finance intervened and said that the car would be delivered on the terms the Complainant had agreed. In such circumstances, the Complainant was put to loss since he had to repay to the Corporation Bank and when he defaulted in loan repayment to Tata Motors Finance it seized the vehicle in question.

It has been submitted on behalf of the Petitioners that the present Petitioners are dealers and office bearers of Tata Motors Finance and the entire transaction has been documented and now being twisted to suit the whims of the Complainant, who wanted to wriggle out of the repayment of loan amount. For the same cause of action now an arbitration proceeding is going on and if at all there is any substance in the grievance of the Complainant, it would be adequately dealt with by the arbitrator.

On the other hand, the Counsel for the Complainant

submits that since the Petitioners put him to loss, they should be put on trial.

Having considered that even conceding the allegations in the Complaint petition no criminal offence would be made out, the application is allowed and the proceeding including the order of cognizance dated 29.3.2010 passed by Smt. Noor Sultana, Judicial Magistrate, 1st class, Patna in Complaint case No.2980C of 2009 without prejudice to either party is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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