

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28159 of 2010

Arising Out of PS.Case No. -0 Year- null Thana -null District- ARRARIA

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1. AM Sawhney son of late Shri A.N. Sawhney, Deputy Chief Executive Officer (CEO), M/s Punjab Tractor Ltd. now known as Mahindra & Mahindra Ltd. FES Swaraj Division having office at Phase IV, Industrial Area, Sahebjada Ajit Singh (SAS) Nagar, Mohali, Punjab
 2. Gautam Khajuria son of Shri Satya Dev Khajuria Deputy General Manager (DGM) M/s Punjab Tractor Ltd. now known as Mahindra & Mahindra Ltd. FES, Swaraj Division having office at House No.387, Ved Nagar, Rukunpura, Bailey road, Patna 800014, Bihar
 3. Gyan Prakash Kaushik son of late Shri Shyam Sundar Kaushik, Junior Engineer of M/s Punjab Tractor Ltd. now known as Mahindra & Mahindra, FES, Swaraj Division, having office at House No.387, Ved Nagar Rukunpura, Bailey road, Patna 800014, Bihar

.... Petitioner/s

Versus

1. The State of Bihar
2. Laxmi Prasad Nayak son of late Shri Mohan Lal Nayak, Proprietor M/s Vikash enterprises, Subhas chowk, Hospital road, Forbesgunj, Arari and resident of Girls Training School road, Forbesgunj, P.O. & P.S. Forbesgunj, District Araria

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Prasad Singh, Sr. Advocate
Mr. Abhishek Anand, Advocate
For the State : Mr. Nagendra Pd., APP
For Opposite Party No.2 : None

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 16-02-2016

No one appears on behalf of the Opposite Party No.2.

The Petitioners seek quashing of the order of cognizance dated 7.11.2009 passed by the Judicial Magistrate, 1st class, Araria in Complaint case No.673C of 2008.

The case of the Complainant is that he was the Proprietor of M/s Vikash Enterprises and he had taken dealership at the instance of the accused persons and paid all the dues between 1989 to 2004 by

cheque, for which he was given a no dues certificate. However, later he discovered that four cheques were missing from his business premises which were illegally used by the accused persons by making false entries.

It has been submitted on behalf of the Petitioners that fact of the matter is that the Petitioners are the business executives of the Company whereas the Complainant was the dealer and owed the company large amount of money and in discharge of his liability issued some cheques, which were dishonoured. A proceeding was then initiated against him for this reason and in retaliation to build up a defence he filed the present Complaint.

Having gone through the facts of the Complaint Petition, I am inclined to hold that the present Complaint is malicious and deserves to be set aside. Hence, the application is allowed and the proceeding including the order of cognizance dated 7.11.2009 passed by the Judicial Magistrate, 1st class, Araria in Complaint case No.673C of 2008 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

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