

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 26333 of 2013

Arising Out of PS.Case No. -2668 Year- 2006 Thana -VAISALI COMPLAINT CASE District-
VAISHALI(HAJIPUR)

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Intiyaz Ahmad S/O Md. H.M. Daud Resident of Rahamganj, Presently At, 12,
Surya Apartment, Fraser Road, P.S- Gandhi Maidan, District- Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Uday Prakash Singh S/o Shyam Babu Singh, resident of Dighhi Khurd, P.S.
Hajipur Sadar, District – Vaishali, proprietor of M/s Vaishali Poultry Ahar
Kendra, Near Raj Timber, Cinema Road, Hajipur, Vaishali.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Sanjiv Sharan, Adv.

For the Opposite Party/s : Mr. Anuj Kr. Srivastava, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 01-09-2016

Heard Sri Sanjiv Sharan, learned counsel for the petitioner
and Sri Anuj Kumar Srivastava, learned Addl. Public Prosecutor.

2. In this case, earlier by order dated 07-04-2016, while
directing for issuance of notice to opposite party no. 2, this Court had
directed for staying further proceeding in Complaint Case No. C/2668
of 2006 pending in the court of learned Judicial Magistrate 1st Class,
Vaishali at Hajipur. Though, notice was validly served on
complainant/opposite party no. 2, the complainant has preferred not
to appear.

3. At the very outset, learned counsel for the petitioner, by
way of referring to the complaint petition, submits that in complaint
petition, mainly accusation was made against accused no. 1 namely
Pradeep Kumar Bagla @ Pradeep Bagla, who was proprietor of M/s



Amrit Feeds Limited, Industrial Area, Hajipur. He has produced a *web* copy of the order dated 24-04-2015 passed in Cr. Misc. No. 27935 of 2013 to persuade the Court that in case of main accused namely Pradeep Kumar Bagla @ Pradeep Bagla, a Bench of this Court has already set aside the order of cognizance i.e. order dated 11-10-2012. By the same common order i.e. order dated 11-10-2012, the petitioner was also summoned. Learned counsel for the petitioner has specifically placed reliance on paragraph – 5 of the order dated 24-04-2015 passed in Cr. Misc. No. 27935 of 2013 and submits that this Court has already considered that the complaint petition deserves to be set aside. He submits that petitioner was only an employee of Mr. Pradeep Kumar Bagla i.e. proprietor of M/s Amit Feeds Limited, and as such, once the order of cognizance in respect of main accused has already been set aside, allowing further proceeding against the petitioner will certainly amount to abuse of the process of the Court.

4. On perusal of the order dated 24-04-2015 passed in Cr. Misc. No. 27935 of 2013, it is evident that in the said case also, despite valid service of notice, the complainant/opposite party no. 2 had not appeared and thereafter, a Bench of this Court has quashed the order of cognizance. At this juncture, it would be appropriate to incorporate paragraph nos. 5 & 6 of order dated 24-04-2015 passed in Cr. Misc. No. 27935 of 2013, which are as follows:-

“5. Accepting the background facts of the case as well as allegation in the Complaint Petition, I would be inclined to hold that the present Complaint Petition deserves to be set aside.

6. Hence, the order of cognizance dated 11.10.2012 passed by the Judicial Magistrate, 1st Class, Vaishali at Hajipur, in Complaint Case No. 2668-C of 2006, is hereby quashed in so far as the Petitioner is concerned.”

5. Since in the present case also, the complainant/opposite party no. 2 has not appeared, the Court is satisfied that the complainant is not at all interested to pursue the matter. Moreover, once the order of cognizance in the same complaint by the same order in respect of the main accused namely Pradeep Kumar Bagla @ Pradeep Bagla has already been set aside, there is no reason to allow the proceeding to continue against the petitioner.

6. Accordingly, the order dated 11-10-2012 passed in Complaint Case No. C/2668 of 2006 by the learned Judicial Magistrate 1st Class, Vaishali at Hajipur so far as petitioner is concerned is, hereby, set aside and the proceeding in the complaint case so far as petitioner is concerned too is set aside.

7. The petition stands allowed.

(Rakesh Kumar, J.)

Anay

AFR/NAFR	N.A.F.R.
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