

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Criminal Writ Jurisdiction Case No.729 of 2017

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

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1. M/s Indus Integrated Information Management Limited, a company incorporated under the Companies Act, 1956 having its registered office at AE-369, Salt Lake, Sector-1, P.S. Vidhan Nagar, District- North 24 arganas, Kolkata through its Authorized Signatory Amit Kumar, son of late Ayodhya Prasad Singh, resident of 101, R.J. Enclave, Road No.12, Gokulpatyh, Patel Nagar, P.S. Shastri Nagar, Patna-800023
  2. Kushal Maitra, aged about 52 years, son of late Sunil Maitra, resident of EE 149/7, Sector-2 Salt Lake City, Kolkata 700091, P.S. East Bidhan Nagar, District- North 24 Parganas, West Bengal.
  3. Smt. Anindita Maitra, aged about 44 years, wife of Kushal Maitra, resident of EE 149/7, Sector 2 Salt Lake City, Kolkata 700091, P.S. East Bidhan Nagar, District- North 24 Parganas, West Bengal.
  4. Sarad Kumar Jha, aged about 39 years, son of Nirmal Chandra Jha, resident of of Hellabattala, Sardar Para, Hatira, Kolkata 700157, P.S. Baguihati, District- North 24 Parganas, West Bengal.

.... .... Petitioner/s

Versus

1. The State of Bihar Through The Secretary I. T. Dept. Govt. of Bihar, Patna
2. Bihar State Electronics Development Corporation Ltd., an undertaking of Government of Bihar having its office at Beltron Bhawan, Shashtri Nagar, Patna.

.... .... Respondent/s

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#### Appearance :

|                      |   |                                                                                                                           |
|----------------------|---|---------------------------------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Sandeep Kumar, Advocate<br>Mr. Abhishek Kumar, Advocate<br>Mr. Alok Kumar Shahi, Advocate<br>Mr. Ajit Kumar, Advocate |
| For the BELTRON      | : | Mr. Girijish Kumar, Advocate                                                                                              |

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 10-10-2017**

Heard learned counsel for the parties.

2. The present writ application has been filed for quashing the First Information Report of Shashtri Nagar P.S. Case No.212 of 2016 registered under Sections 419/420/34 of the Indian Penal Code.
3. The prayer for quashment is on the ground that no



offence, as alleged, is made out in the facts and circumstances of this case and continuance of the criminal proceeding would amount to abuse of the process of the Court.

4. The first informant is in-charge of Bihar State Electronics Development Corporation Ltd. (in short BELTRON). According to F.I.R., there was an agreement between the BELTRON and the petitioners' firm M/S. IIIM (Indus Integrated Information Management Limited) for providing man power to BELTRON in between 2007 to December, 2009. Though the petitioner has provided the man power. However, they did not deposit the Employees Provident Fund (EPF) money of some of the employees though the amount was provided by the BELTRON. The same is detailed in the F.I.R. The F.I.R. was lodged on 21.05.2016.

5. Submission of the learned counsel for the petitioners is that this may be a case of negligence on the part of the petitioners' firm in depositing the EPF amount within time. However, the petitioners' firm has already deposited the EPF amount rather along with interest and the same has been accepted by the EPF and ESI vide Annexure-5 series and Annexure-6 series. Thereafter by letter dated 28.02.2017 vide Annexure-5 series the BELTRON has already issued certificate that the petitioners' company has deposited ESI amount in excess to the tune of Rs.73,000/- and odd. The challans in proof of



the deposit of the ESI amount are detailed in Annexure-7.

6. Learned counsel for respondent No.2 submits that though the BELTRON had stated in the letter dated 28.02.2017 aforesaid that excess money has been deposited. However, by letter dated 11.07.2017 the BELTRON has asked for electronic challan return from the petitioners' company, which they have not supplied as yet.

7. The law is well settled that the subsequent event may also be taken into note to consider whether criminal prosecution is fit to be allowed to continue or its continuation would amount to an abuse of the process of the Court. In the present case allegation is of non-deposit of the ESI amount till the lodging of the F.I.R. which have already been deposited by the petitioners along with interest thereof. The ESI or the EPF have not noticed to the petitioner regarding non-deposit of the aforesaid amount. The F.I.R. does not disclose the dishonest intention of the petitioner at the inception of the agreement between the parties nor any intention to deceive anyone which is an important ingredient to substantiate the charges of cheating. Therefore, in my view, continuance of the criminal prosecution against the petitioners is an abuse of the process of the Court which cannot be allowed to go on.

8. Therefore, the entire F.I.R. and subsequent proceeding



of the aforesaid P.S. Case stands hereby quashed and the writ application is allowed. The petitioner would submit the details of the electronic challan return to the informant's company for his satisfaction.

**(Birendra Kumar, J)**

Mkr./-

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|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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