

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13125 of 2014

Arising Out of P.S.Case No. -2927 Year- 2008 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

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1. M/S G.G. Photo Limited
 2. M/S Photo Film Industries Limited
 3. Sushil Gupta S/O Late H. Gupta
 4. Gaurav Gupta S/O Sri Sushil Gupta All are in resident of G.G. House-42 Irish Park, Juhu, P.S. Juhu, Town and District Mumbai.

.... Petitioners

Versus

1. The State of Bihar.
2. M/S Nirmala Picture resident of Muhalla Jawahar Picture Palace, at Aamgola Road, P.S. Mithanpura, Town and District Muzaffarpur, through authorized representative Sri Surendra Mohan Karn.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Sarvendra Kumar Verma, Advocate
For the Opposite Parties : Mr. C.Jawahar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

CAV JUDGMENT

Date: 06 -09-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 08.09.2009 passed by Judicial Magistrate, Ist Class, Muzaffarpur in Complaint Case No.2927 of 2008 under Sections 418, 420 and 120B of the IPC and also the order dated 11.11.2013 whereunder non-bailable warrant of arrest has been issued against the petitioners.

2. Heard both sides and perused the record.

3. The facts in brief is that the Opposite Party No.2 filed a complaint case on the file of CJM, Muzaffarpur alleging inter-alia that their firm deals business of distribution of Film in the State of Bihar



and Jharkhand. The firm is duly registered under Bihar and Jharkhand motion picture association having its office at Muzaffarpur and Branch office at Patna. The petitioners approached the complainant (Opposite Party No.2) for release of movie 'Abhay' and in this regard they had telephonic conversation on 28.02.2002. The said movie was to be released on 01.03.2002 but the producers did not release the film on the date fixed rather the same was deferred to be released in future. As per prevalent practice, the petitioners had to send registration certificate/letter to the complainant in the name of Secretary, Bihar Motion Pictures Association (hereinafter referred as 'Association') so that the registration of the film in the name of Opposite Party no.3 be done for entire Bihar and Jharkhand territory for a period of ten years. The Opposite Party No.3 was required to submit a forwarding letter along with the said registration letter to the Association with required fee of Rs.1500/-. The association gave a provisional registration letter to the Opposite Party No.2 on 01.03.2002 for a period of four weeks and during this period, the petitioners was required to send the form no.2A (Producer's-Distributor's Certificate) but the petitioners did not send the prescribed form and other relevant papers. The complainant gave repeated reminder to make the necessary arrangement but to no effect and the petitioner failed to comply the promise. The complainant in



such circumstance could run the movie only for four weeks. The complainant gave an amount of Rs.2 lacs through demand draft no.320386 dated 19.11.2001 and an amount of Rs.1 lac through demand draft no.773119 dated 02.02.2002. Besides the payment of distribution fee, the complainant paid a sum of Rs.41,400/- towards the supply of raw stock for the print of the movie Rocky which was not supplied to the Opposite Party No.3. It has been submitted that the petitioners were liable for payment of entire amount along with interest total amounting to Rs.10,79,822/-. The petitioners have thus cheated the complainant and so the court below has rightly taken cognizance against the petitioners.

4. Learned APP opposed the submissions.

5. On perusal of complaint petition, counter affidavit and annexures on record, I find that the Opposite Party No.2 had paid an amount of Rs.3 lacks to the petitioner as per demand drafts. The petitioners had agreed to give the right of distribution of movie 'Abhay' for its release in Bihar and Jharkhand territory. The movie was although released on 01.03.2002 but the petitioners did not send the form 2A (purchaser/distributor certificate) even after deposit of required fee of Rs.1500/-. The complainant could run the movie only for four weeks for want of form 2A. The complainant was thus put to loss on account of non-compliance of terms and conditions of



agreement by the petitioners. The complainant in course of inquiry and other witnesses have stated that the petitioners have cheated the complainant and committed breach of trust by retaining the amount which was given to them as per demand draft. From Anneuxre-3A of supplementary counter affidavit, it appears that the petitioners had requested the Bihar Motion Pictures Association for registration of film ‘Abhay’ in favour of complainant for a period of ten years from the date of release of said film. It further shows that the complainant had deposited Rs.15,00/- as required fee for provisional permission of release of picture and its registration. The conduct of petitioners prima-facie constitute the offence under Sections 420, 418 and 120 of the IPC.

6. The learned Magistrate after going through the materials on record found prima-facie case for the offence in question and accordingly summoned the petitioners. The impugned order does not suffer any illegality requiring interference under inherent jurisdiction.

7. This criminal miscellaneous application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	23.08.2017
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