

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36327 of 2014

Arising Out of PS.Case No. -2548 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Madan Lal Malhotra aged about 80 years , son of Late Shri J.S. Malhatra

2. Rakesh Malhotra aged about 52 years son of Madan Lal Malhotra Both at 221 , Udyog Vihar , Phase -1 , P.S. - Udyog Vihar , District - Gurgaon (Haryana)

.... Petitioners

Versus

1. The State of Bihar

2. M/S Santosh Electricals through its Manager Shri Madhusudan Pandey , C/o M/S Santosh Electricals , Station Road , P.S. - Kotwali District - Patna .

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Mayank Shekhar, Advocate

For the Opposite Party/s : Mr. Rajesh Ranjan, Advocate

For the State : Mr. Madhuranand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the petitioners, learned counsel representing the complainant-Opposite Party No. 2 and learned Additional Public Prosecutor for the State.

In the present case, the petitioners are seeking quashing of the order dated 30.03.2011 passed in Complaint Case No. 2548(C) of 2010 by which learned Chief Judicial Magistrate, Patna has taken cognizance of the offence under Section 418 of the Indian Penal Code and decided to issue summon to the petitioners.

A perusal of the complaint petition would show



that the complainant-Opposite Party No. 2 was allegedly appointed as Distributor of M/s Radiant Power System Pvt. Ltd. for the whole Bihar. It is alleged that the petitioners, in the present case, were the Managing Director and Director of M/s Radiant Power System Pvt. Ltd. According to the case of the complainant-Opposite Party No. 2, he was entitled to a commission of 2% on the sale of materials worth Rs. 1 Crore, but in course of business, the Company not only appointed an another Distributor but also failed to pay the alleged claims/dues of the complainant-Opposite Party No. 2.

Learned counsel for the parties, at the outset, submit that the dispute arises out of a commercial deal which is in the nature of a private dispute between the parties which they have now settled outside the court and on a fresh accounting the petitioners have agreed to pay a sum of Rs. 4,50,000/- (Rupees Four Lacs Fifty Thousand) to the complainant-Opposite Party No. 2.

Learned counsel for the complainant-Opposite Party No. 2 accepts this position and submits that in view of the settlement and the payment, which is being offered to the complainant-Opposite Party No. 2 vide Cheque No. 475603 dated 13.11.2017 for Rs. 4,50,000/- (Rupees Four Lacs Fifty



Thousand) drawn on ICICI Bank, Janakpuri Branch, New Delhi payable at par in favour of the complainant-Opposite Party No. 2, now he has no grievance and no further purpose would be served by keeping the prosecution pending.

Having considered the facts and circumstances of the case, I am of the considered opinion that, in view of the settlement and consequential payment in terms of the settlement, further continuation of the complaint case in the court below would only be an abuse of the process of court. The dispute arose out of a commercial deal and this compromise is not having any adverse societal impact.

Thus, in the interest of justice, the order taking cognizance is hereby set aside and this application is allowed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.11.2017
Transmission Date	16.11.2017

