

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39774 of 2014

Arising Out of PS.Case No. -2833 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. MR. O.P. BHARDWAJ, s/o late Shri R.P. Bhardwaj, at present posted as Project Head at Tirora, r/o Tirora in Adani Power Maharashtra Limited, having its office at Plot No. A-1, Tirora Growth Centre, MIDC Area, Tirora, Gondia 441911, Maharashtra.
 2. Mr. Vivek Dubey, s/o late Shri T.S. Dubey, at present posted as Head-Site Techno Commercial at Adani power Ltd., Achalraj Opp Mayor Banglow, Law Garden, Ahmedabad-380006, Gujarat

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Adv.
For the Opposite Party/s : Mr. Vishwajeet Kumar Mishra, Adv.
For the State : Mr. Md. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 15-09-2017

Heard Mr. N.K. Agarwal, learned senior Advocate on behalf of the petitioners and Mr. Vishwajeet Kumar Mishra, learned counsel for Opposite Party No.2 as well as learned Additional P.P. for the State.

This application has been filed by the petitioners for quashing the order dated 31.05.2014 passed in Complaint Case No. 2833 of 2013, Tr. No. 3649/2014, by which the learned Judicial Magistrate took cognizance for offences under Sections 403 and 417 of the Indian Penal Code.

From perusal of the complaint case, it appears that the



complaint petition was filed by Ramnath Pandey alleging therein that the complainant is not paid his outstanding dues for the work done by him.

Supreme Court has time and again deprecated the filing of complaint case for realizing the outstanding dues or for deciding a commercial transaction or a contractual dispute, apart from seeking remedy in civil law. The Court has noticed the growing tendency in business circles to convert purely civil disputes into criminal cases. The Hon'ble Supreme Court has laid certain principles on the basis of which High Court can exercise its jurisdiction under Section 482 of the Cr.P.C.

Having regard to the nature of the controversy involved in the present case, the outstanding dues against the company can be realized by other remedies and complaint case and criminal case is not appropriate mechanism to enforce the civil liability much less for realization of outstanding dues.

In the aforesaid circumstances, this Court is left with no option but to quash the order taking cognizance dated 31.05.2014 passed by Sri R.K. Dwivedi, Judicial Magistrate 1st Class in Complaint Case No. 2833C/2017.

It is made clear that the quashing of the order taking cognizance will not come in the way of petitioner for seeking other



remedy for realization of his outstanding against the Company.

(Anil Kumar Upadhyay, J.)

Rakhi

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	04.10.2017
Transmission Date	04.10.2017

