

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24650 of 2012

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Smt. Meena Kumari W/O Ram Brit Singh Resident Of Village- Niyazipur,
Police Station- Fatuha, District- Patna, At Present 1st Floor, Gharaunda
Apartment, West Lohanipur, Police Station- Kadamkuan, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ram Brind Singh S/O Jagarnath Singh Resident Of A/41, Vijay Nagar
Hanuman Nagar, Police Station- Patrakar Nagar, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate.
For O.P. : Mrs.Nivedita Nirvikar, Advocate.
For the Opposite Party/s : Mr. J.Upadhyay (App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

5 25-04-2017 The petition for quashing is against the order dated

17.12.2011 passed in Complaint Case No.1469 (C) of 2011
whereby the learned Judicial Magistrate, 1st Class, Patna, has taken
cognizance for the offence against the petitioner and her husband
under Sections 341, 323, 379, 504, 420, 406/34 of the Indian Penal
Code.

3. The instant quashing petition has been
preferred by only one co-accused Smt.Meena Kumari wife of Ram
Brit Singh another co-accused.

4. The present case arises out of Complaint
Case No.1469 (C) of 2011 filed by one Ram Brind Singh against
another partner of his firm Ram Brit Singh and his wife Smt.



Meean Kumari alleging therein that the complainant started business in partnership with Ram Brit Singh, one of the accused, in the name of M/s. Shiv Shankar Enterprises. One of the conditions of the partnership was that they would make investment in equal share consequently would share profit in the same proportion. The partnership firm was started in the year, 1998, subsequently M/s. Karnataka Antibiotics and Pharmaceuticals Ltd. (hereinafter to be referred to as 'KMPL'), Bengaluru, appointed the firm of the complainant as Hospital Stokist for the State of Bihar and Jharkhand and both sides entered into an agreement in this regard.. In the year 2010,the complainant while examining the Accounts of the Firm found that volume of business with the KMPL was very poor, so enquired about the matter and learnt that his partner Ram Brit Singh keeping him in dark has started another business in the name of M/s. Shiv Medico in the partnership with his wife Smt. Meena Kumari and this partnership firm has become Hospital Stockist of M/s. Karnataka Antibiotics and Pharmaceuticals Ltd. Moreover Ram Brit Singh made forged signature of the complainant, accordingly, got the business transferred to M/s. Sheo Medico, therefore, the complainant's Company M/s. Sheo Shankar Enterprises suffered huge loss. The complainant made protest in this regard. Thereafter



some panchayati was held and both partners agreed that whatever earning as profit was made by M/s. Shiv Medico profit would be divided equally and according to the accounting Rs.2/- lacs was found due against the accused persons who owed to pay the complainant. Further allegation is that the accused persons wrongfully procured medicines from Rudram Pharma at Ranchi, which is a Joint partnership firm of Meena Kumari, the petitioner of the present application as well as Ram Brind Singh, the complainant. The bill of said transaction was shown in the name of M/s. Hari Enterprises but the amount was not paid to the M/s Rudram Pharma. Further allegation is that the complainant pursued for settlement but failed. Moreover, accused persons with the help of three strangers on the point of pistol obtained complainant's and his son's signature on a blank sheet of paper and also took away his wrist watch and Rs.3,500/- besides this also assaulted with fists and slaps.

5. Learned counsel appearing on behalf of the petitioner submits that the only allegation leveled against the petitioner in para 6 of the complaint petition do not make out a case of cheating and breach of trust against her. She is one of partners of M/s. Rudram Pharma, Ranchi along with the complainant. The allegations do not make out any action of



deception and cheating to the complainant by the petitioner. It is obvious that medicine was purchased by M/s Hari Enterprises from M/s Rudram Pharma, the company in joint partnership of the petitioner and the complainant. Moreover, the petitioner is not concerned in any way with M/s Hari Enterprises. In fact, there is some accounting dispute between the complainant and the petitioner's husband so his wife too has also been implicated in this case to put pressure on her husband.

6. Learned counsel appearing on behalf of the O.P. No.2 submits that the allegations do make out a prima facie of cheating and breach of trust against the petitioner also. M/s. Shiv Shankar Enterprises Firm in partnership with the complainant and the husband of the petitioner suffered loss as Ram Brind Singh in association with his wife started another firm M/S Shiv Medico and later on as Ram Brind Singh, a co- accused got authority of M/s. Shiv Shankar Enterprises cancelled and started doing business with M/s. Karnataka Antibiotics and Pharmaceuticals and the petitioner fraudulently obtained medicines to the tune of Rs.2/- lacs 57 thousand and the said amount has not been paid. Moreover, at the enquiry stage two witnesses, complainant and his sons have been examined and they have also supported the complainant's case.



7. Having considered the rival submissions of both sides and on perusal of the materials on record, I find that the specific allegation with respect to the petitioner is of wrongfully purchasing medicines worth Rs.2,57,000/- from M/s. Rudram Pharma, Ranchi, without making payment but the purchase bill is in the name of M/s.Hari Enterprises, Ranchi. However, this petitioner is herself one of partners of M/s. Rudram Pharma along with the complainant and the allegation itself shows that the medicine was purchased by M/s. Hari Enterprises, as the bills are in its name. Moreover, there is no allegation that M/s Hari Enterprises is a fake or non-existent firm, besides this the petitioner being one of partners of M/s Rudram Pharma will also suffer loss so no allegation constituting deception ,i.e. dishonest concealment of fact is made out in the backdrop of this case against the petitioner. The said facts also do not show entrustment of any property with the petitioner by the complainant. So the allegation does not make out any prima facie case of cheating or misappropriation of any money by the petitioner. Therefore, the allegation as leveled against the petitioner in the complaint and statements of enquiry witnesses do not make out a prima facie case under Sections 341, 323, 379, 504, 420 and 406/34 of the I.P.C. against the petitioner. So, the cognizance order dated



17.12.2011 with respect to the petitioner only as well as further proceeding against her is hereby set aside.

In the result, this quashing petition is allowed.

(Arun Kumar, J)

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