

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.15758 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- PATNA

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1. Dr. Anjana Singh (Director) D/O Sri R.P. Thakur Central Diagnostics Patna, Sumbha Complex, West Boring Canal Road, P.S.- Krishnapuri , Patna-1.
 2. Abhishek Kumar @ Abhishek, Accountant S/O Late Nageshwar Pd Central Diagnostics Patna , Sumbha Complex , Police Station - Krishna Puri , West Boringh Canal Road , Patna-1.
 3. Shree Prakash S/O Late Manager Prasad Rai Central Diagnostics Patna, Sumbha Complex, Police Station - Krishna Puri , West Boring Canal Road , Patna.

.... Petitioners

Versus

1. The State of Bihar,
2. Mrs. Swarna Lata , Proprietor Of NEERCO, W/O Neeraj Kumar 115 , Rajdhani Palace , C.P. Thakur Lane Puri , P.S. Shastri Nagar , Patna.

.... Opposite Parties

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Appearance :

For the Petitioners	:	Mr. P.N. Rai, Advocate,
For O.P. No.2	:	Mr. Onkar Nath, Advocate
For the State	:	Mr. A.M. Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
Date: 28-11-2017

Heard learned counsel for the petitioner, learned counsel appearing on behalf of O.P. No.2 and also learned A.P.P. for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 21.10.2008 passed in Complaint case No. 1815 (C) of 2010, whereunder the Judicial Magistrate, 1st Class, Patna summoned the accused petitioners, on enquiry, under Section 204 of the Code of Criminal Procedure finding prima facie case under Sections 323, 342, 406, 420 and 120-B of the Indian Penal Code.

3. The facts leading to this application are that O.P.



No.2 Mrs. Swarna Lata filed the Complaint Case No. 1815 (C) of 2008 to the effect that she is the proprietor of NEERCO, which engaged in dealing and supply of clinical laboratories equipments. In course of business transaction, O.P. No.2 came in contact with petitioner No.1 Dr. Anjana Singh, Proprietor of Central Diagnostics, Patna and on verbal order of petitioner No.1, O.P. No. 2 supplied the equipments and other materials to Central Diagnostics, Patna from 06.04.2006 to 06.10.2007 in the laboratory of petitioner No.1 worth of Rs. 42,69,000/- but O.P. No.2 was only paid Rs. 30,34,000/- and remaining amount of Rs. 12 Lakhs become dues. Due to bad financial condition O.P. No.2 asked to petitioner No.1 to pay the entire dues amount on which petitioner No.1 told to O.P. No.2 to wait for certain time on the pretext that she is also suffering from financial crises and petitioner No. 1 herself endorsed in her pen on paper about showing the dues amount of Rs. 12,34,000/-. In spite of much persuasion petitioner No.1 did not pay the remaining dues of Rs. 12,34,000/- but, on 11th October, 2007 petitioner No.1 informed that on email address of the O.P. No.2 that she will pay Rs. Five Lakhs and the rest amount Rs. Seven lakhs would be adjusted in lieu of furnishing the bank guarantee. Thereafter, O.P. No.2 approached the bank and released the petitioner No.1 as a guarantor to her bank loan account. Thereafter, the O.P. No.2 approached the accused petitioner No.1 on 27.05.2008 then she was asked to wait for some time, but the petitioner No.1 did not take any heed. The O.P. No. 2 again approached to the petitioner No.1 then she was misbehaved by the petitioners at the premises of Central



Diagnostics. Thereafter, the O.P. No.2 contacted several times to petitioner No.1 to pay the remaining dues of Rs. 9,97,577/- after adjusting Rs. 1,50,000/-, which was paid by the petitioner No.1 to the O.P. No.2 as friendly loan, but the petitioner No.1 did not take any heed with intention to grab Rs. 9,97,577/-.

4. Learned counsel for the petitioners submits that petitioner No.1 is the Director and Petitioner Nos. 2 and 3 are employees of Central Diagnostics. In fact, O.P. No.2 used to supply clinical laboratory equipments and materials in the Central Diagnostics, Patna and there is dispute of accounting of price of supplied materials by the O.P. No.2 and payment made by the petitioner No.1. Further submission is that petitioner is still ready to pay the dues on checking bill and vouchers, but with ulterior motive, the Complainant/O.P. No.2 filed the present case with false allegation. Further submission is that, in fact, in absence of petitioner No.1 O.P. No.2 along with others entered in the campus of Central Diagnostics and created nuisance regarding which petitioner No.1 informed to Neeraj Kumar, husband of O.P. No.2 on e-mail regarding nuisance created by O.P. No.2 saying that after checking of the bills and vouchers the remaining dues will be paid, which would appear to Annexure-B to the counter affidavit of O.P. No.2.

5. On the other hand, learned counsel appearing on behalf of O.P. No.2 submits that it would appear to the Complaint petition itself that petitioner No.1 had dishonest in tension of non-payment of the price of material supplied by the O.P. No.2 in to



Central Diagnostics from very beginning. As such there is no illegality in the impugned order summoning the accused petitioners, on enquiry, under Section 204 Cr.P.C. for the offence under Sections 323, 342, 406, 420 and 120-B of I.P.C.

6. On perusal of the complaint petition dispute appears to be rendition of account regarding the bill and vouchers of supply of clinical laboratories equipments and materials by the complainant/O.P. No.2 and payment made by petitioner No.1, which is of civil in nature. As such summoning the accused-petitioners, on enquiry, under Section 204 Cr.P.C. finding prima facie case under Sections 323, 342, 406, 420 and 120-B of the Indian Penal Code in complaint case No. 1815 (C) of 2010 continuance of further proceeding in the said case would amount to abuse of the process of court.

7. In the result, the impugned order dated 21.10.2008 passed in Complaint case No. 1815 (C) of 2010, by the Judicial Magistrate, 1st Class, Patna and further proceeding in the said case is hereby quashed. Accordingly, this application is allowed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	04.12.2017
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