

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29796 of 2013

Arising Out of PS.Case No. -1445 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Ram Govind Singh, S/O Sri Ram Singh, presently working as Sector Manager, Saharsa India, Kankarbagh Branch, P.S.- Kankarbagh, District- Patna
 2. Kumar Shailendra, S/O Sri Ram Anugrah Prasad, presently working as Officer, Sahara India, Sector Office, Kankarbagh, Patna-800020

.... Petitioner/s

Versus

1. The State of Bihar
2. Kailash Kumar, S/O Sri Jawahar Prasad, resident of Chandpur Bela, P.S.- Jakkanpur, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Prasad Singh, Sr. Advocate with
Mr. Rajeev Ranjan Prasad, Advocate
Mr. Rajendra Kumar, Advocate

For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-01-2017

The instant application under Section 482 Cr. P. C. has been filed on behalf of the petitioners for quashing the order of cognizance dated 07.09.2012 by which the Judicial Magistrate, 1st class, Patna, has found *prima facie* case against the petitioners and other under Sections 406, 420, 120-B and 385 of the Indian Penal Code in Complaint Case No1445-C of 2012.

Heard learned counsel for the petitioners and the learned APP for the State.

None has appeared on behalf of the Opposite Party No.2.

As per the Complaint Petition, the complainant had good



relationship with accused No.1-Neeraj Kumar, who came at the residence of the complainant and told him that he has been appointed as a Franchise of M/s Sahara India. He also informed the complainant that for the purpose of said Franchise, he will have to invest crores of rupees. The accused No.1 induced the complainant to invest in M/s Sahara India. The complainant enquired from accused Nos. 2 and 3 (petitioners), who are the employees in the Mithapur Office of M/s Sahara India. The accused Nos. 2 and 3 supported the statement of the accused and made the complainant to believe that investment of capital would give huge benefit. The complainant further alleged that in terms of agreement he deposited ₹84,28,000/- in various instalments out of which ₹35,00,000/- was returned by accused No.1-Neeraj Kumar through Office of M/s Sahara India, Mithapur. It is further alleged that the complainant made demand of balance amount from the accused No.1 but he kept avoiding. The complainant went to the office of M/s Sahara India and met these petitioners, then they informed that the accused No.1 had been removed from the Franchise.

During enquiry, besides complainant's Solemn Affirmation, statement of four other witnesses were also recorded. Learned counsel for the petitioners has read the Solemn Affirmation of the complainant, which has been annexed as Annxure-2, wherein, the complainant has stated to a Court question in para 11 that he did not get any receipt from M/s Sahara



India in support of the deposit of money. In para 12, the complainant has stated that he had never any personal transaction with these accused persons. It further appears from the Solemn Affirmation itself that he did not file any Bank Statement or Cheque etc. He has stated in para 14 of the Solemn Affirmation that he will file Bank Statement or cheque. In this manner, it is really surprising that one will make payment of ₹84,28,000/- without any valid document in cash as mentioned in the Complaint Petition. Moreover, it has been specifically mentioned in the Complaint Petition that the money has been paid to the accused No.1- Neeraj Kumar. There is merely allegation against these petitioners that they being the employee of M/s Sahara India also supported the assertion of the accused No.1- Neeraj Kumar that he has taken the Franchise of M/s Sahara India.

During the course of argument, it has been submitted by the counsel for the petitioners that proceeding against Neeraj Kumar has already been quashed by a co-ordinate Bench of this Court vide order dated 09.12.2014 passed in Cr. Misc. No.13548 of 2014. The copy of the said order has been filed by way of Supplementary Affidavit.

In such circumstances, this Court is of the view that criminal proceeding against the petitioners only on the basis of oral statement of the complainant is totally abuse of process of law and harassment to the petitioners. Further, proceeding against one of the co-accused has already been quashed by a co-ordinate Bench of this Court.



Accordingly, the order of cognizance dated 07.09.2012 passed by the Judicial Magistrate, 1st class, Patna, in Complaint Case No.1445-C of 2012 as well as entire proceeding against the petitioners are hereby quashed.

The application stands allowed.

(Sanjay Priya, J)

JA/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26-01-2017
Transmission Date	26-01-2017

