

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36376 of 2013

1. Anand Vardhan Singh S/O Late Shyam Sunder Singh Resident Of Mohalla Times Of India, Faizabad Road, Tiwary Ganj, P.S. Tiwary Ganj, District Lucknow At Present, Associate General Manager, Bennett Coleman Ltd. Lucknow.

.... Petitioner/s

Versus

1. The State Of Bihar.

.... Opposite Party/s

with
Criminal Miscellaneous No.2524 of 2013

Arising Out of PS.Case No. -851 Year- 1994 Thana -PATNA COMPLAINT CASE District- PATNA

M/S Bennett Coleman & Co. Ltd Through Subeer Kumar Bagchi

.... Petitioner/s

Versus

The State of Bihar Through Sec

.... Opposite Party/s

with
Criminal Miscellaneous No.21656 of 2013

Arising Out of PS.Case No. -851 Year- 1994 Thana -PATNA COMPLAINT CASE District- PATNA

1. M/S Times Publishing Houses Ltd. A Public Limited Company Incorporated Under The Companies Act, 1956 Having Its Registered Office At 7, Bahadur Shah Zafar Marg, New Delhi And Patna Office At Time House, Fraser Roads, P.S. Kotwali, Town & District Patna Through Its Authorized Signatory Raj Kumar Lal Sharma, Assistant Manager Rimes Publishing House Ltd., S/O Sri Puran Lal Sharma, Frazer Road, P.S. Kotwali, Patna-1.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Sri Rajendra Prasad Mandal, Dy. Labour Commissioner Patna, Govt. Of Bihar.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.36376 of 2013)

For the Petitioner/s : Mr. Sanjay Singh,
Mr. Sanjay Kumar Ojha

For the State : Mr. Mayanand Jha (App)

For the O.P. : Mr. Pankaj Kr. Sinha, Adv.
Mr. Rajiv Kumar Singh, Adv.

(In Cr.Misc. No.2524 of 2013)

For the Petitioner/s : Mr. Ajay Kumar Tiwary
For the Opposite Party/s : Mr.



(In Cr.Misc. No.21656 of 2013)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Mayanand Jha(App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

11 10-04-2017 All the three criminal miscellaneous cases have arisen for quashing the order dated 19.08.1994 passed by the Chief Judicial Magistrate, Patna in connection with Case No. 851 (M) of 1994 whereby and whereunder cognizance has been taken under Section 20 of the Industrial Dispute Act, 1947 but wrongly stated in the order as of 'Production Act' against the petitioners on the basis of the complaint lodged by O.P. No. 2 for alleged violation of Section 18 (2) of the Industrial Dispute Act, 1947.

The petitioners have earlier moved to this Hon'ble Court for quashing the order taking cognizance dated 19.08.1994 passed in Complaint Case No. 851 (M) of 1994 along with M/s Excel Publishing House Ltd. which was dismissed as not pressed by this Hon'ble Court by order dated 05.10.1999. Though the Criminal Miscellaneous No. 17174 of 1994 was decided and allowed and the criminal miscellaneous of these petitioners were left to be decided, rather remained pending and later on were dismissed regarding which the petitioners could know after years when process was issued against them and then they filed these criminal miscellaneous.



Submission in short is that M/s Excel Publishing House Limited, who is the employer of retrenched employee, has filed Criminal Miscellaneous No. 17911/14 which was allowed vide order dated 20.11.2014 and against him, proceeding including the order of cognizance dated 19.08.1994 passed by the Chief Judicial Magistrate, Patna in Case No. 851(M) of 1994 was set aside and, as such, the petitioners cannot be proceeded in that case. After adopting proper procedure 21 employees were retrenched and out of them 19 employees accepted their retrenchment whereas, only four persons were agitating their demand in the Labour Court proceeding, which is still pending by Reference case no. 88 of 1994 and on that ground that parallel proceeding for the same relief is pending, the order taking cognizance and the proceeding was quashed in criminal miscellaneous no. 17911 of 2014.

The learned counsel for the petitioners submits that in view of the order passed in criminal miscellaneous no. 17911 of 2014, these petitioners also cannot be proceeded.

The learned counsel for O.P. No. 2 on the other hand submits that all the four companies are one and same and to save the skin, they have created four companies and further earlier their criminal miscellaneous were dismissed vide order dated 05.10.1999 as not pressed and after long lapse of time, they again



filed these criminal miscellaneous cases.

After perusal of the order passed in criminal miscellaneous Nos. 17911 of 2014 and 21535 of 2013, in my opinion also these proceedings appears only misuse of the process of the Court. When a parallel proceeding for the same relief is pending in reference case no. 88 of 1994, the present prosecution can not proceed. Considering such aspect of the matter, since this is multiplicity of the proceedings and remaining retrenched employee will get his relief from the Labour Court. The application is allowed and the proceeding including the order of cognizance dated 19.08.1994 passed by the Chief Judicial Magistrate, Patna in Case No. 851 (M)/1994 is hereby set aside with respect to the petitioners.

However, the quashment of the present proceeding shall have no bearing on other claims.

In the result, all these three criminal miscellaneous applications are hereby allowed.

(Jitendra Mohan Sharma, J)

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