

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39400 of 2011

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

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1. M/s. Reddy Pharmaceuticals Ltd. a registered company under the Companies Act, through its Managing Director Sri Konda Raghurami Reddi, having its registered office at B - 7, Patparganj Industrial Area, New Delhi - 110092.
 2. Konda Raghurami Reddy, son of K. Chandra Shekhar Reddy, Managing Director, M/s. Reddy Pharmaceuticals having its registered office at B-7, Patparganj Industrial Area, New Delhi - 11009.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sri Baliram Tiwary, son of Sri Rambadan Tiwary, Proprietor M/S Global Enterprises Chitkohra, Bishnupuri, Anisabad, P.S. - Gardanibagh, Patna - 800002 (Complainant).

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Sinha, Advocate
Mr. Arvind Kr. Sharma, Advocate
Mr. Sanjeev Kumar, Advocate.
Mr. Chetan Kumar, Advocate.
For the Opposite Party No.2 : Mr. Lakshmindra Kumar Yadav, Advocate
For the State : Mr. Anuj Kumar Shrivastava, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 07-09-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 09.06.2011 passed by the learned Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 1353(C) of 2011 by which the learned Magistrate has after holding enquiry found *prima facie* case against the petitioners for the offences under Sections 406, 403 and 504 of the Indian Penal Code.

2. Heard learned counsel for the petitioners, learned counsel for the opposite party No. 2 and learned Additional Public



Prosecutor.

3. The counsel for the petitioners submits that the dispute as described in the complaint petition is totally matter of accounting and no criminal offence is made out in the facts of the case.

4. The petitioners have no any intention from the very beginning to cheat the complainant. The complainant has entered into business deal with petitioners and complainant was appointed as C&F agent of the petitioner to sell the medicines. He was liable to make payment of 8 per cent tax besides the penalty imposed by the sales tax department.

5. On the other hand, learned counsel for the opposite party No. 2 has submitted that petitioners have appointed the complainant as C&F for which he deposited security money of Rs.5,00,000/- by way of Demand Draft. The petitioners discontinued the business and when complainant made demand to return his security money of Rs.5,00,000/- along with interest and other expenses, the petitioners misbehaved and refused to return the money and also manhandled the complainant.

6. This Court after going through the complaint petition, finds mention in paragraph-12, the total claim of the complainant is amounting to Rs.8,00,370/-. The main grievance as alleged by the complainant making claim of Rs.8,00,370/- against the petitioners, is totally, matter of accounting and the same cannot be decided in the Criminal Court.

7. The counsel for the petitioners relied on a decision



reported in **2011 (4) PLJR SC Page 31 (Joseph Salvaraj A. Vs. State of Gujarat & Ors).**

8. The Hon'ble Supreme Court in aforesaid judgment has held that purely civil dispute, is sought to be given a colour of a criminal offence to wreak vengeance against the appellant. It does not meet the strict standard of proof required to sustain a criminal accusation.

9. In the instant case, from the averment of the complaint itself, it appears that both parties have entered into business agreement. There is no any averment in the complaint petition that from very beginning, there was any intention on part of the petitioners to commit cheating and play fraud with the complainant. During course of business transaction, some dispute arose between the parties mainly on account of money transaction. The complainant has made specific assertion in paragraph 12 of the complaint petition that total amount of Rs.8,00,370/- is due with the petitioners.

10. In such view of the matter, such type of disputes can only be properly decided after proper accounting under civil jurisdiction. The criminal prosecution cannot be the remedy for such grievance.

11. Therefore, this Court is of the view that continuance of criminal proceeding against the petitioners for the aforesaid claim will be abuse of the process of Court and mere harassment to the petitioners.

12. Accordingly, the impugned order dated 09.06.2011 passed by the learned Judicial Magistrate, 1st Class, Patna, and the entire Criminal Proceeding against the petitioner in connection with Complaint



Case No. 1353(C) of 2011, is hereby quashed.

13. This Criminal Miscellaneous application is accordingly allowed.

14. It is relevant to mention that this order will not debar the complainant from adopting civil remedy for his grievance.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	09/10/2017
Transmission Date	09/10/2017

