

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8436 of 2014

Arising Out of PS.Case No. -1924 Year- 2010 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Sudhir Kr. Singh S/O Late Ramdev Singh
2. Pinki Singh W/O Sri Sudhir Kr. Singh Both R/O Flat No.-402, B- Block,
Narayan City Apartment, Sheikhpura, P.S.- Shastri Nagar, Distt.- Patna

.... Petitioners

Versus

1. The State Of Bihar
2. Sri Mohan Singh S/O Late Rajnath Singh R/O Mohalla- Navneet Colony,
Rukunpura, P.S.- Rupaspur, District- Patna

.... Opposite Parties

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Appearance :
For the Petitioners : Mr. Deovind Kumar Singh, Advocate
For the State : Mr. Zainul Abedin, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL JUDGMENT
Date: 24-07-2017

This application has been filed by petitioners under Section 482 of the Code of Criminal Procedure for setting aside order dated 28.10.2010 passed by Mrs. Kumari Vijaya, Judicial Magistrate Ist Class, Patna in Complaint Case No.1924 (c) of 2010 whereby cognizance of the offence has been taken under Section 420 of the Indian Penal Code as well as 138 of N.I. Act.

2. This case arises out of Complaint Case No.1924 (c) of 2010, the case is filed by one Mohan Singh against accused persons including M/S S.R. Sales, a partnership firm.

3. It is alleged that besides the firm Accused No.1 rest other accused persons 2 to 5 are its partners. The firm is engaged in



business of sale and purchase of readymade garments. Complainant and accused persons were acquainted with each other so by way of friendly loan complainant helped him by giving Rs.54,87,968/- to this firm on promise to return the loan as per schedule mentioned in the agreement dated 25.5.2009. Pursuant to that agreement 82 cheques were issued to the complainant out of that eight cheques presented in the bank by the payee but all bounced due to insufficient fund.

4. Learned counsel appearing on behalf of the petitioners challenges the cognizance order merely on the ground that petitioners are not concerned with the M/S S.R. Sales they are only signatory on the agreement.

5. It is further submitted that the cheques were issued by a proprietorship firm and not partnership firm of M/S S.R. Sales.

6. Learned counsel appearing on behalf of the opposite party no.2 submits that these two petitioners are also partners of M/S S.R. Sales and loan was taken on behalf of the said company so there is no difference in using the word proprietorship or partnership of M/S S.R. Sales. Moreover, the complainant in her examination on S.A. has supported the allegation.

7. Having considered rival submissions of both sides, the Court is of the view that the defence of the petitioners cannot be considered at this stage, no sterling document is produced by the



petitioners showing they are not partners of M/S S.R. Sales so there is no ground for interfering with the cognizance order.

8. Accordingly, this application stands dismissed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
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