

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15059 of 2014

Arising Out of PS.Case No. -70 Year- 2013 Thana -SULTANGANJ District- BHAGALPUR

- =====
1. Ashutosh Kumar Singh, Son of Sunil Prasad Singh, Resident of Village Jogiara, P.S. Jale, District Darbhanga
 2. Satya Prakash, Son of Late Sheopujan Bhagat, Resident of Village Noorpur, P.S. Nath Nagar, District Bhagalpur

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv. Mr. L.K. Sharma Mr. Prem Shankar Kumar
For the State	:	Md. Ansural Haque, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

Date: 22-09-2017

Heard both the parties.

Petitioners, by means of this application under section 482 of the Cr. P.C., have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 26.07.2013 passed by C.J.M., Bhagalpur in Sultanganj P.S. Case No. 70 of 2013, whereby cognizance has been taken against the petitioners for the offences under sections 420, 467, 468, 406 and 120B/34 of the I.P.C.

The contention of learned counsel for the petitioners is that no offence against the petitioners is disclosed and the present prosecution has been instituted with *mala fide* intention for the purposes of harassment.



Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioners and in course of search, certain documents showing deposit were seized. The company dishonestly and fraudulently induced the customers to deposit money with false assurance. Hence, no ground for quashing the entire proceedings is made out.

From perusal of the materials available on record and looking into the facts of the case, at this stage, it cannot be said that no offence is made out against the petitioners. All the submissions made at bar relates to the disputed questions of facts, which cannot be adjudicated upon by this Court in exercise of power conferred under section 482 Cr. P.C. Only a *prima facie* satisfaction of the Court about the existence of sufficient ground to proceed in the matter is required. At this stage only *prima facie* case is to be seen in the light of the law laid down by the Supreme Court in cases of ***R.P. Kapur Vrs. State of Punjab, A.I.R. 1960 SC 866, State of Haryana Vrs. Bhajan Lal, 1992 SCC (Cr.) 426, State of Bihar Vrs. P.P. Sharma, 1992 SCC (Cr.) 192, Zandu Pharmaceutical Works Ltd. Vrs. Mohd. Saraful Haq and another (Para-10) 2005 SCC (Cr.) 283 and recently in A.R.C.I. Vrs. Nimra Cerglass Technics (P) Ltd. (2016) 1 SCC 348.*** The submissions made by the learned counsel for the petitioners call for adjudication on pure questions of fact which may be adequately



gone into by the Trial Court in this case. This Court does not deem it proper, and therefore, cannot be persuaded to have a pre-trial before the actual trial begins. The disputed defence of the accused cannot be considered at this stage. Moreover, the petitioners have got a right of discharge through a proper application for the said purpose and they are free to take all the submissions in the said discharge application before the Trial Court. The prayer for quashing the order taking cognizance is refused.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
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