

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27530 of 2015

Arising Out of PS.Case No. -719 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. M/s. Aaron Healthcare And Export (p) Ltd. Exhibition Road , Patna through its Director Sri Shambhu Sharan Son of Late R.P. Sinha, Exhibition Road, Police Station- Gandhi Maidan , District- Patna.
 2. Shambhu Sharan Son of Late R.P. Sinha, presently the Director, Aaron Healthcare and Export (P) Ltd. , Exhibition Road, Police Station- Gandhi Maidan , District- Patna.
 3. Vinay Kumar Son of Sri Kamla Mishra, Presently the Director, Bakarganj Bajaja, Police Station- Pirbahore in the district of Patan

.... Petitioner/s

Versus

1. The State of Bihar
2. Vidya Jyoti Enforcement Officer/ Provident Fund Officer, Patna, Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the Opposite Party/s : Mr. Satyaverat Verma (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 25-04-2017

Heard learned counsel for the petitioners and

Mr. J.N. Thakur for the State.

The present application has been filed for quashing the order dated 20.08.2011/25.04.2012 passed by learned Chief Judicial Magistrate, Patna in Complaint Case No. 719(C-2) of 2011, whereby process has been directed to be issued after cognizance being taken for the offences punishable under Section 14(2) of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (here and after called the 'Act').



The prosecution case would unveil that on 17.08.2011 the opposite party no. 2, Enforcement Officer/Provident Fund Inspector filed Complaint Case No. 719(C-2) of 2011 before the learned Chief Judicial Magistrate, Patna alleging therein that the petitioners being the Incharge of M/s. Aaron Healthcare Pvt. Limited failed to supply the required documents under Section 13(2)(b) of the Act and hence, they have committed offence under Section 14(2) of the Act.

Learned counsel for the petitioners submits that the petitioners have deposited the entire deducted amount of provident fund in the department concerned.

In view of this Court, at the stage of exercising jurisdiction under Section 190(1)(a) Cr.P.C. the learned Magistrate has only to see whether the accusation constitutes a prima facie case. A useful reference may have to the case of Sonu Gupta Vs. Deepak Gupta & Ors., 2015(2) PLJR (SC) 321. Paragraph no. 7 reads as:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused



persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

Moreover, the impugned order was passed on 20.08.2011/25.04.2012 but there is nothing on record to suggest the present stage of the case.

In view of the above settled legal proposition, this Court is not inclined to interfere. Accordingly, this application is disposed with liberty to the petitioners to raise all contentions at the appropriate stage of the proceeding.

(Dinesh Kumar Singh, J)

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