

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4316 of 2014

Arising out of Case No. -519 Year- 2011 Thana -PATNA COMPLAINT CASE District- PATNA

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1. Naveen Prothi, S/O Madan Lal Prothi, Resident of E-79, Saket, P.S.- Saket, New Delhi- 110017.
 2. Sanjeev Kumar Sharma, S/O C.R. Sharma, Resident of 632, Sector-2, R.K. Puram, P.S.- R.K. Puram, New Delhi - 110022.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Jyant Kumar, S/O Late Ramkrishna Mahto, Proprietor of M/S Krishna Krishi Kendra, Situated at Tulsi Mandi, Gulzarbagh, (Near Station Road), P.O.- Gulzarbagh, P.S.- Alamganj, District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 18-07-2017

Heard learned counsel for the parties.

2. The petitioners challenge the order dated 13.03.2012 passed by Sri Nitin Kaushik, Judicial Magistrate, 1st Class, Patna City whereby he has taken cognizance of offence under Sections 323, 448, 504 and 506 of the Indian Penal Code and also for setting aside the complaint case.

3. The allegation in complaint, in brief, is that petitioners, who are former representatives of company, namely, M/s Fill Industries Ltd., having its registered office at New Delhi, came on the



alleged date of occurrence to the business firm of the complainant, along with Sanjeev Kumar Sharma, the present representative of the company, and introduced him. They complained that due to him, company has incurred huge loss so you have to compensate it. Whereas complainant replied that he has suffered loss due to the company. Upon this, Sanjeev Kumar Sharma, the present representative of the company, caught hold his collar, abused him and asked him to pay Rs. 5 lacs as compensation. Thereafter, all accused persons assaulted him with fists, slaps and legs. It is further alleged that Sanjeev Kumar Sharma putting the revolver on his person, demanded extortion of Rs. 5 lacs.

4. Learned counsel appearing on behalf of the petitioners submits that as per allegation, both petitioners were former representatives of the company. The complainant has had an agreement with the company and was appointed as CNF of the company but due to the conduct of the complainant, the company suffered huge loss. However, these petitioners had no concerned with the company. He further submits that only allegation against the petitioner is of introducing the present representative, Sanjeev Kumar Sharma to the complainant but there is no specific allegation against these petitioners. In fact, company had filed a suit i.e., Suit No. 1162 of 2010 dated 07.08.2010 in the court of Tis Hazari, Delhi for



recovery of damage against the complainant and only after receipt of the notice in the suit, the present complaint case has been filed only to harass the petitioners, so the complaint case is also malicious in nature.

5. Learned counsel appearing on behalf of the O.P. No. 2 submits that title suit filed by the company before Tis Hazari Court was ultimately dismissed in the year 2015 and the allegation against the petitioners is that they came to the firm of the complainant and assaulted him and the complainant has also filed a suit in Patna against the company.

6. Having considered the rival submissions and on perusal of record, it appears that the complainant was a CNF of the company and there appears a dispute as pesticides and insecticides, worth Rs. 9,62,880/-, was being transported to Lucknow, but on the border of Bihar and Uttar Pradesh, it was seized by Sales Tax Authorities due to some error in the permit thereafter company filed suit against the complainant for seeking compensation for damage due to the company.

7. The present complaint case was filed on 31.05.2011 after filing of the suit by the company before the Tis Hazari Court. The only allegation against these petitioners is that they came along with Sanjeev Kumar Sharma, present representative of the company,



though these petitioners were not representatives at the relevant period of the company, and introduced Sanjeev Kumar Sharma to the complainant thereafter he asked to compensate Rs. 5 lacs as damage caused to the company due to his act, moreover, there is general allegation against these petitioners that they assaulted the complainant with leg and fist, except this, there is no any other allegation against them. However, it appears absurd and improbable that former representatives of the company would come from Delhi to Patna along with present representative for demanding compensation amount from the complainant.

8. The allegation levelled against these petitioners in the complaint appears absurd, improbable and malicious in nature, therefore, order taking cognizance dated 13.03.2012 only with respect to these petitioners is set aside, however, it is made clear that the complaint case is not set aside. In the result, this petition is partly allowed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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