

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37674 of 2014

Arising Out of PS.Case No. -1813 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

- =====
1. Vishnu Kumar Bhandari, Chairman and Managing Director, M/S Supertron Electronics Ltd.
 2. Nirmal Kumar @ Nirmal Kumar Meharia, Vice President, Supertron Electronics Ltd.
 3. Vibhor Aggarwal, Director, M/S Supertron Electronics Ltd.
 4. Anil Kapoor, General Manager, M/S Supertron Electronics Ltd. All having its office at Supertron House No.2, Coper Lane, off R.N. Mukherjee Road, P.S. Hare Street, Kolkatta-700001.
 5. Santosh Mishra, Manager, Supertron Electronics Ltd. At house no.30, Dr. T.N. Banerjee Road, beside Prararthana Bhawan Chhujubagh, P.S. Gandhi Maidan, District- Patna.

.... Petitioners

Versus

1. The State of Bihar
2. M/s Sharda Infotach having its office at 103, Jyoti Tower 1st Floor, Near Dakbunglow Road, P.S. Gandhi Maidan, District Patna through its proprietor namely Sri Mukesh Kumar Agarwal.

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Naresh Dikshit, Advocate
For the State : Mr. Abhay Kumar-I, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 04-08-2017

Heard learned counsel for the petitioners as well as
learned counsel appearing on behalf of opposite party no.2 and the
State.

2. The petitioners, who was Managing Director and
other officers of one Company, namely, M/S Supertron Electronics
Ltd., in this application have challenged order dated 29.1.2014 passed
by Judicial Magistrate, 1st Class, Patna in Complaint Case No.1813(C)
of 2013 whereby cognizance has been taken under Sections 420 and



467 of the Indian Penal Code as well as summons too have been issued to stand trial in the case.

3. Learned counsel appearing on behalf of the petitioners submits that the complainant opposite party no.2 was a dealer of the Company and business transaction was going on. The Company supplied Electronics/computer related parts and other peripherals and to discharge the liability submitted cheque to the company, the same was presented in the Bank along with other cheques but the same got bounced. Consequently, the company filed case under Section 138 of N.I. Act against the complainant which is pending in the court of Kolkatta where the complainant has appeared and charge has been framed in the case thereafter, this complaint has been filed to put pressure to withdraw this case, so this prosecution launched by the complainant is malicious in nature whereas learned counsel appearing on behalf of opposite party no.2 submits that the said cheque was given as a security and instruction was given to the Bank not to make payment against the said cheque but accused persons presented the cheque before the Bank. It is quite clear that cheque was presented to get it dishonored.

4. Having considered rival submissions and on perusal of record, it appears that cognizance has been taken under Sections 420 and 467 of the I.P.C. in the backdrop of the aforesaid facts of the



case prima facie of making forged document or cheating is not made out. Admittedly, the petitioners filed a case for dishonor of cheque before the Kolkatta Court thereafter, this complaint case has been filed. The stand of the complainant is that the cheque was given as a security. Such plea may be taken by the complainant before the trial court in which the case under Section 138 of N.I. Act is pending. This present case is found malicious in nature and continuation of the criminal proceeding would be abuse of process of the Court, so entire criminal proceeding including cognizance order dated 29.1.2014 passed in Complaint Case No.1813(C) of 2013 pending in the court of Judicial Magistrate, 1st Class, Patna is hereby quashed.

5. The petition stands allowed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30-08-2017
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