IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33819 of 2017

Arising Out of PS.Case No. -222 Year- 2011 Thana -PATNA COMPLAINT CASE District- PATNA

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1. Bajaj Allianz General Insurance Company Ltd., having its office at Bajaj Allianz General Insurance Company Limited G.E. Plaza, P.S.- Yerwada, Pune- 411011, Maharashtra through Tapan Singhel son of Dr. Ran Bahadur Singh, currently designated as the Managing Director and Chief Executive Officer of Bajaj Allianz General Insurance Company Limited, G.E. Plaza, P.S.- Yerwada, Pune- 411011, Maharashtra.
2. Gunjan Sandilya son of Ajay Kumar, currently designated as the Branch Manager, Bajaj Allianz General Insurance Company Limited, N- A/7, Irrigation Department Employees Co-operative Society, Chitragupta Nagar, Kankar Bagh, P.S.- Kankar Bagh, District- Patna.
3. Tapan Singhel son of Dr. Ran Bahadur Singh, currently designated as Managing Director and CEO of Bajaj Allianz General Insurance Company Limited, G.E.Plaza, P.S.-Yerwada, Pune, Maharashtra

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chandeshwar Prasad son of Moti Singh, resident of Shahpur, behind Central School, By-Pass Road, N.H. 30, P.S.- Gopalpur Gauri Chak, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate
	:	Mr. Ansul, Advocate
For the Opposite Party No.2	:	Mr. Sumeet Kumar Singh, Advocate
	:	Mrs. Prem Sheela Pandey, Advocate
For the State	:	Mrs. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-07-2017

This application under Section 482 of the Code of Criminal Procedure (for short 'the CrPC') has been filed by the petitioner invoking inherent jurisdiction of this Court seeking quashing of the order dated 18.04.2011 by which the learned Judicial Magistrate, 1st Class, Patna (Sadar) has taken cognizance of the offence punishable under Section 409 of the Indian Penal Code (for short 'Penal Code') and issued summons against the petitioner in Complaint Case No.222c of 2011.

2. The prosecution case, as alleged by the complainant in his complaint, in short, is that the complainant purchased a new Mahindra MA Model Scorpio car and got it registered as BR1-PA-1015. The said vehicle was insured with Bajaj Allianz General Insurance Company Limited and the validity of the insurance was from 03.10.2008 to 02.10.2009. It is alleged that on 17.10.2008 the vehicle met with an accident and sustained damage. The complainant informed the company on 18.10.2008 and applied for claim for compensation, vide claim no.OC-09-2416-1801-00000929. According to the complainant, a surveyor was appointed, who submitted survey report of damaged vehicle. After submission of the survey report, the accused no.2, Gunjan Sandilya, the Branch Manager, Bajaj Allianz General Insurance Company Limited, N-A/7, Irrigation Department Employees Co-operative Society, Chitragupta Nagar, Kankar Bagh, Patna intimated the complainant to take the damaged vehicle to Sonali Auto Private Limited where an estimate of Rs.1,26,680/- was given. The company did not pay the amount and the complainant had to pay the same out of his own pocket. The company asked him to produce a copy of the driving license of the driver as per rules and regulations. It has been alleged that despite supplying the same, the amount was not paid. It has further been alleged that despite sending a legal notice dated 26.08.2010 and a reminder dated 07.10.2010 to the company, no action was taken and they sat tight over the matter.

3. After institution of the complaint, under Section 200 CrPC the complainant got examined himself on solemn affirmation. He also got examined three enquiry witnesses in course of enquiry conducted under Section 202 CrPC whereafter the impugned order dated 18.04.2011 was passed summoning the petitioners in exercise of power conferred under Section 204 CrPC by the learned Judicial Magistrate, 1st Class, Patna.

4. Mr. Yogesh Chandra Verma**,** learned Senior Advocate appearing for the petitioners has submitted that the petitioner no.1 is a juristic person, as it is a company incorporated under the Indian Companies Act, 1956. The petitioner no.2 is the Branch Manager of the branch of the company from where the vehicle of the complainant was insured whereas the petitioner no.3 is the Managing Director of the company. He has submitted that the Managing Director of the company has been implicated in this case without there being any allegation on him in the complaint. He has submitted that petitioner no.2, the Branch Manager of he company, has been posted on 01.04.2017 and he has no personal involvement in the present case. He has further submitted that the entire dispute is of pure civil nature arising out of a commercial contract entered into between the Bajaj Allianz General Insurance Company Limited and the complainant and the ingredients of criminal offence punishable under Section 409 of the CrPC are not attracted in the present case. He has contended that on the intervention of common friends and well wishers, the parties have settled their dispute outside the court. They have also executed settlement deed incorporating terms of settlement. He has submitted that for the ends of justice the prosecution may be quashed so that harmonious relationship may be restored between the parties.

5. Mr. Binod Kumar Singh, learned counsel appearing for the complainant-opposite party no.2 has admitted that the parties have amicably settled their dispute outside the court. He has submitted that the grievance of the complainant has already been redressed and the complainant does not want to proceed with the matter any more.

6. I have heard learned counsel for the parties and perused the record.

7. However, no doubt, in respect of serious offences like murder, rape, dacoity, etc. or other offences of mental depravity under the Penal Code or offences of moral turpitude under special statute, like Prevention of Corruption Act or the offences committed by the public servant while working in that capacity, the compromise between the offender and the victim will have no legal sanction at all.

However, in view of the contours of power conferred under Section 482 of the CrPC described in **B.S.Joshi & Ors. vs. State of Haryana & Anr. [(2003)4 SCC 675]** which has been followed and further explained and elaborated in **Gian Singh vs. State of Punjab [(2012) 10 SCC 303]** and **Jitendra Raghuvanshi & Ors. vs. Babita Raghuvanshi & Anr. [(2013)2 PLJR (SC) 312],** it would be permissible for this Court to quash the certain offences which overwhelmingly and pre-dominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable.

8. In view of the ratio laid down by the Supreme Court in the aforementioned cases and looking to the facts of the present case, since the wrong alleged is basically to the victim and the victim has settled all his disputes with the petitioners amicably and the offence alleged has arisen out of commercial transaction, in the opinion of this Court allowing the prosecution to continue would defeat the ends of justice.

9. Accordingly, the impugned order dated 18.04.2011 passed by the learned Judicial Magistrate,1st Class, Patna (Sadar) is hereby quashed.

10. The application stands allowed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
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