

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32696 of 2013

Arising Out of PS.Case No. -3187 Year- 2012 Thana -MUZFFARPUR COMPLAINT CASE District-
MUZAFFARPUR

- =====
1. Siddharth Dutta S/O Shivnath Dutta Chief Financial Officer, Go Air, Mumbai
2. Jahangir R Mehta S/O Ratna J Mehta Vice President, Go Air, Mumbai
3. Sunil Madan S/O Chamanlal Madan Vice President, Go Air, Mumbai
4. Kamal Kikani S/O Bhupendra Kikani Vice President, Go Air, Mumbai
(Wrongly Named In The Complaint As Kamal Kiran)
5. Kristoper Grazel S/O Joseph Greaurl Vice President, Go Air Flight Operation, Mumbai
6. Suraj Sundaram S/O P.G.Sundaram Vice President, Revenue Management, Go Air, Mumbai

.... Petitioner/s

Versus

1. The State Of Bihar
2. Sudhir Kumar @ Sudhir Kumar Ojha S/O Krishna Ojha R/O Lalatpur Pakari, P.S. Sadar, District- Muzaffarpur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv
For the Opposite Party/s : Mr. S.M.Rahman (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER



10 07-04-2017

Heard both sides.

The petitioners filed this petition for quashing the order dated 05.02.2013 passed in Complaint case No. 3187 of 2012 by which the learned Judicial Magistrate found prima facie case under Section 420, 120(B), 504 of the Indian Penal Code to proceed against the petitioners. The petitioners further prayed for quashing the order dated 03.07.2013 passed in Cr. Rev. No. 113 of 2013 by which the learned Sessions Judge dismissed the revision petition of the petitioners preferred against the order dated 05.02.2013 passed in Complaint case No. 3187 of 2012.

The case of complainant/ opposite party No.2, in short, is that he purchased a ticket of Go Airways for coming to Muzaffarpur from Delhi on 18.11.2012. When the complaint reached at Delhi airport he got message that his ticket was cancelled and he would get money from the agent within ten days. The complainant alleged that he purchased the ticket of Go Airways for journey dated 18.11.2012 only to participate in the Chhath Puja but the flight was rescheduled for 19.11.2012. The complainant received message on 17.11.2012 that the flight was rescheduled and he got ticket of flight G8-189 which would take off at 4.25 PM on 19.11.2012. The complainant alleged that he suffered mental agony and also monetary loss.



The learned Chief Judicial Magistrate, Muzaffarpur after perusing the evidence of the complainant and the witnesses, found prima facie case under Section 420, 120(B), 504 of the IPC to proceed against the petitioners. The petitioners assailed the order aforesaid before the learned Sessions Judge in Cr. Rev. No. 113 of 2013 but the learned Sessions Judge vide order dated 03.07.2013 dismissed the revision petition.

The petitioners assailed the orders impugned on the ground that the petitioners are Chief Financial Officers and Vice Presidents of the Go Airways. They are not at all responsible for cancellation of the flight. The flight, scheduled to depart on 18.11.2012, for which the complainant purchased ticket, was cancelled due to unavoidable circumstances and for that the petitioners cannot be held responsible. The complainant got ticket in the next flight scheduled to depart from Delhi on 19.11.2012, but the complainant did not board the flight and on the facts aforesaid no offence under Section 420 or 120B or 504 of the IPC is made out against the petitioners. Even if the entire complaint petition is taken on its face value, the petitioners had no talk with the complainant at any point of time, either at the time of purchasing ticket or at the time of cancellation of the flight, due to unavoidable circumstances.



In reply to the aforesaid submissions, the learned counsel for the complainant/ opposite party No.2 has submitted that the complainant was cheated and no proper information was given to him.

Having considered the submission of learned counsel for the petitioners and on perusal of the complaint petition as well as the impugned orders, I find that the complainant purchased ticket of Go Airways for the flight scheduled to depart from Delhi on 18.11.2012. The flight was cancelled and the complainant received message of rescheduling of flight on 19.11.2012, but the complainant alleged that he was cheated in a conspiracy hatched by the petitioners. The complainant has not stated anywhere that he had any talk with the petitioners, who are Chief Financial Officers and Vice Presidents of Go Air. On the face of the contents of the complaint petition, I find that no offence under Section 420, 120(B), 504 of the IPC is made out but the learned Chief Judicial Magistrate illegally found prima facie case, on the basis of materials available on record and did not advert such materials as to how the offence under Section 420, 120(B), 504 of the IPC is made out against the petitioners. Therefore, I find that the order dated 05.02.2013 passed by the learned Chief Judicial Magistrate, finding prima facie case against



the petitioners, is illegal. The subsequent order passed by the learned Sessions judge in Cr. Rev. No. 113 of 2013, affirming the order of learned Chief Judicial Magistrate, is also illegal. Accordingly, both the orders are set aside. This quashing petition is allowed.

(Prabhat Kumar Jha, J)

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