

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51176 of 2013

Arising Out of PS.Case No. -187 Year- 2013 Thana -MUZFFARPUR COMPLAINT CASE District-
MUZAFFARPUR

- =====
1. Kuldeep Singh, Son of Satya Vir Singh, Director, Micros M Technochem Pvt Ltd 674/1, Second Floor, Mahalaxmi Plaza Shakit Khand - Iii, Indirapuram, P.S. Indirapuram, Ghaziabad (U.P.).
 2. Smt. Ekta Singh Wife of Kuldeep Singh 674/1, Second Floor, Mahalaxmi Plaza Shakit Khand - Iii, Indirapuram, P.S. Indirapuram, Ghaziabad (U.P.)

.... Petitioners

Versus

1. The State of Bihar
2. Shiv Nath Chaudhary, S/O Late Ramdev Chaudhary, Director M/S Shirdi Foods Pvt Ltd Plot No. A- 7 (P) Industrial Estate Bela Midc, P.S. Bela, District – Muzaffarpur.

.... Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate,
For the Opposite Party/s	:	Mr. Rajiv Kumar, Advocate
For the State	:	Mr. Dr. Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 20-06-2017

Heard learned counsel for the petitioners, learned counsel appearing on behalf of O.P. No.2 and learned counsel appearing on behalf of the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure to quash the order dated 02.04.2013, whereunder the learned Chief Judicial Magistrate, Muzaffarpur summoned the accused-petitioners under Section 204 of Cr.P.C., on enquiry, finding prima facie case under Sections 409, 420 and 120-B of the Indian Penal Code.

3. The fact leading to this application is that O.P. No.2 filed Complaint Case No. 187 of 2013 in the Court of Chief Judicial Magistrate, Muzaffarpur to the effect that he being the Director of Shirdi Foods Pvt. Ltd. negotiated to the accused-petitioners other two accused, who are Director of Micro M.



Technochems Pvt. Ltd.674/1, 2nd Floor, Mahalaxmi Plaza Building, Shaktikhand-III, Indrapuram, Ghaziabad (U.P) on 03.09.2010 to establish a factory for production of 08 tons sugar candy per day on payment of Rs. 62,00,000/-. The accused-petitioners supplied the purchase order of Rs. 71,95,972/-, accordingly, the work of designing and establishing the machines were to be done by the accused. On different occasions till 31.05.2011, he paid Rs. 63,55,372/- to the accused. According to the agreement, the factory was to be established till 27th June, 2011, but the factory was not established within the stipulated time then on 08.08.2011 and 25.08.2011 message through E-mail were sent to the company by complainant/O.P. No.2 and he also talked to petitioner No.2, one of the Director of Micros M. Technochems Pvt. Ltd, but the factory was not established. Thereafter, complainant/O.P. No.2 sent a legal notice to the company, which was replied on false facts on 16.11.2011. As such, accused-petitioners under conspiracy did not establish sugar candy factory according to the agreement and complainant/O.P. No.2 suffered loss of Rs. 2 Crores 56 lakhs.

4. Learned counsel for the petitioner submits that only Rs. 64,46,768/- was paid to the company of petitioners out of agreed amount of Rs. 71,95,972/- by the complainant/O.P No.2 and machines have also been fixed and Rs. 7,49,204/- is still due against the complainant/O.P No.2 only to give undue pressure, the complainant/O.P No.2 has filed the present case in which petitioners and other accused have been summoned through the impugned order.

5. Learned counsel for the complainant/O.P.No.2



fairly admits that Rs.7,49,204/- is still due according to the agreement, but the factory has not been established in running condition according to agreement by the company of which the petitioners and other two accused named in Complaint are directors, as such, petitioners have cheated the complainant/O.P. No.2.

6. On going through the complaint petition, it appears that the dispute appears to be violation of the agreement entered in between the complainant/O.P. No.2 and company of which the petitioners are directors and dispute appears to be civil in nature. As such, summoning the accused including the petitioners finding prima facie case under Sections 409, 420 and 120-B of the Indian Penal Code on enquiry under Section 202 Cr.P.C. is illegal and abuse of the process of the Court.

7. In the result, this impugned order dated 02.04.2013 summoning the accused including the petitioners under Section 204, on enquiry, Cr.P.C. finding prima facie case under Sections 409, 420 and 120-B of Indian Penal Code by the Court of Chief Judicial Magistrate, Muzaffarpur in Complaint Case No. 187 of 2013 is hereby quashed. However, it is open to the complainant/O.P. No.2 to raise his grievance under appropriate forum in accordance with law.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2017
Transmission Date	23.06.2017

