

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 29523 of 2006

Vishal Thakur, Son of Late Amar Kant Thakur, Resident of 230, Patliputra Colony, Police Station- Patliputra, District at Patna, Pin-800013. (At present the acting Managing Director of M/s Kishan Krishi Kendra Pvt. Ltd. Jamal Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bishun Dayal Bhagat, S/o Sri Mushhar Bhagat, R/o Village- Khalik Nagar, Gaurihar, P.S. Sakara, District- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ganpati Trivedi, Sr. Advocate Mr. Madan Mohan and Mrs. Pallavi Pandey, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.
For the Opposite Party/s	:	Mr. P. N. Shahi and Mr. Ram Vinay Sharma, Advocates

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-12-2018

Heard learned counsel for the petitioner; learned A.P.P.

for the State and learned counsel for the Opposite Party No. 2.

2. The petitioner has moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following reliefs:

“That by this application the petitioner pray for quashing of the order dated 17.02.2004 passed in Complaint Case No. 315 of 2004 by Addl. Chief Judicial Magistrate, Muzaffarpur whereby cognizance has been taken of the offences under Sections 420, 204, 409, 467, 468, 471, 384 and 120B of the Indian Penal Code. This petitioner also pray for quashing of the entire Criminal Proceeding comprised in the aforesaid Complaint case against this Petitioner.”



3. The petitioner was a Dealer of Mahindra and Mahindra Tractor. The Opposite Party No. 2 (complainant) had bought a tractor from him of Mahindra and Mahindra, which he alleged was not new and accordingly even after due repairs, he was not satisfied and had filed the complaint in question.

4. Learned counsel for the petitioner submitted that he was only the dealer of the Company and the responsibility for its worthiness was that of the Company, i.e., Mahindra and Mahindra and they also had repaired the Tractor of the Complainant. Learned counsel submitted that be that as it may, in any view of the matter, the petitioner cannot be held liable as even as per the norms, the responsibility for worthiness is that of the manufacturer and not the Dealer. Learned counsel submitted that Opposite Party No. 2 had also moved the Consumer Disputes Redressal Forum, Muzaffarpur in Complaint Case No. 45 of 2004, which was decided in his favour by order dated 03.06.2011, directing the manufacturer to repair the Tractor and also pay Rs. 5,000/- cost. Learned counsel submitted that in satisfaction of the said order, the Opposite Party No. 2 has been given Rs. 5,000/- by way of draft and also a duly repaired Tractor in the year 2011. For this Execution Case No. 22 of 2011 was also filed, which was ultimately disposed off on 17.09.2012.



5. On 26.11.2018, the Court had granted time to learned counsel for the petitioner and Opposite Party No. 2 to bring on record, the up-to-date correct factual position. In terms thereof, a supplementary affidavit has been filed on behalf of the petitioner. However, no such affidavit has been filed on behalf of the Opposite Party No. 2. Learned counsel for the Opposite Party No. 2 submitted that he has communicated the order to him.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the case for interference has been made out. The petitioner being a Dealer and the complaint relating to dissatisfaction of the complainant with the product, it was the manufacturer who was responsible for making good the deficiencies. Moreover, the same now having been done and the petitioner also having been paid cost as per the order of the Consumer Disputes Redressal Forum, Muzaffarpur, the Court finds that nothing remains in the complaint filed by the Opposite Party No. 2.

7. Accordingly, the order dated 17.02.2004 passed in Complaint Case No. 315 of 2004, taking cognizance against the petitioner under Sections 420/204/409/467/468/471/384/120B of



the Indian Penal Code as well as the entire criminal proceeding
stands quashed.

8. The application stands allowed.

(Ahsanuddin Amanullah, J.)

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