

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33585 of 2014

Arising Out of PS.Case No. -155 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. V. Rao Avva, Son of Late Avva Venkata Appa Rao Chairman, M/S Agri Gold Projects Ltd.

2. A. Udaya Bhaskar Rao Son of Late Avva Venkata Appa Rao, Managing Director, M/S Agri Gold Projects Ltd.

3. Sitarama Rao Avva Son of Late Avva Venkata Appa Rao, Asst. Managing Director & Vice Chairman, M/S Agri Gold Project Ltd.

4. K. Bhagavan Reddy Son of Raja Reddy, Vice President, M/S Agri Gold Projects Ltd. All residents of Agri Gold Tower, 6-3-8/10/4, Durga Colony, P.S. - PunjaGutta Hyderabad- 500062.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Sandeep Reddy Son of Sri Krishna Reddy Resident of House No. 1-49/6/B, Surya Nagar Colony, Uppal, Hyderabad, Andhra Pradesh. At Present - 403, B. Ram Nath Apartment, I.A.S. Colony, Kidwaipuri, P.S. - Kotwali, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar, Adv.
Mr. Siddartha Prasad, Adv.
Mr. Om Prakash Kumar, Adv.

For the Opposite Party/s : Mr. Ambuj Nayan Chaubey, Adv.

For the State : Mr. Arun Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 21-02-2018

Heard the counsels for the parties.

2. The petitioners, who are Group Chairman, Managing Director, Assistant Managing Director-cum-Vice Chairman and Vice President respectively of M/s Agri Gold Projects Ltd., have sought quashing of the order dated 15.01.2014 passed by the learned Judicial Magistrate 1st Class, Patna in Complaint Case No. 155 (C)/2013,



whereby cognizance has been taken against them under Sections 420, 467, 468 and 120B of the Indian Penal Code.

3. On the strength of a settlement having been arrived between the petitioners and the complainant/opposite party no. 2, a joint agreement on behalf of the parties referred to above has also been filed in Court today, which has been kept on record.

4. The joint memo indicates that the complainant/opposite party no. 2 has agreed to accept Rs. 10 lakhs towards full and final settlement of his grievances *qua* the petitioners. It has also been agreed that upon payment of the aforesaid amount, the complainant would not be desirous in prosecuting the petitioners any further.

5. A brief narration of the allegation levelled by the complainant/opposite party no. 2 would be relevant for the purposes of accepting the aforesaid settlement between the petitioners who are only four out of ten accused persons arraigned by the complainant/opposite party no. 2 in the complaint petition.

6. The complainant/opposite party no. 2, on the assurance of the petitioners and others that the company, namely, Agri Gold Projects Ltd. enjoys a good reputation with the railway, agreed to invest money for obtaining a tender for work of mud filling in a particular sector. It was agreed upon between the parties that the



tender would be procured in the name of the company referred to above for which the work would be executed by the complainant/opposite party no. 2 and in lieu of the same, the company would charge 5% of the bill amount. On this assurance, the complainant is said to have invested a huge amount of money, but later he learnt that the company did not have the requisite standards to obtain contract work from the railways and no such contract could be obtained by the company. The complainant has alleged that for obtaining the contract work of mud filling, he had deposited approximately Rs. 19 lakhs as earnest money. He had also paid Rs. 10 lakhs to an official of the company towards the work which was expected to come to him. That apart, on several occasions, he made payments to others, totalling about Rs. 85 lakhs.

7. Admittedly, Rs. 19 lakhs was returned to the Company when the contract was not allotted in its favour and the aforesaid amount was returned to the complainant/opposite party no. 2. The other amount of money, which the petitioners had admitted to have been paid, has been agreed upon to be returned. The complainant/opposite party no. 2 has agreed that after receiving the amount of Rs. 10 lakhs as referred to above, he would not be interested in prosecuting the petitioners any further.

8. It has been jointly submitted before this Court that



the petitioners have undertaken to pay an amount of Rs. 10 lakhs within a period of 60 days to the complainant/opposite party no. 2.

9. Learned counsel for the petitioners has further drawn the attention of this Court to the fact that some amount of money which was received by accused nos. 6 and 7, viz. Ratan Prasad and Rajmani Sevar, employees of the company, were never transmitted to the account of the company and the aforesaid two persons had acted on their own behalf without any instructions from the company.

10. Similarly, it has been submitted that accused nos. 8, 9 and 10, viz. Arvind Sharma, Roshan Construction and Amit Kumar are also in the same business of construction and their services were utilized by the company for liaisoning with the railways. Admittedly, their actions are not at the instance of the company or the petitioners.

11. Considering the aforesaid aspects and taking into account the law in this regard, this Court is inclined to quash the order of cognizance dated 15.01.2014 but only *qua* the petitioners.

12. In case of ***Gian Singh Vs. State of Punjab and Another*** reported in ***(2012) 10 SCC 303*** the Supreme Court, after referring to a number of decisions, has laid down that even in a non-compoundable offence, an order for quashing of the proceedings could be ordered if a settlement is effected between the offender and the victim and if it is found that the offences are personal in nature.



Para 61 of the aforesaid judgment reads as follows:

“61.....the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offence Under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly are predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile,



civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

13. Similar view has been expressed by the Supreme Court in case of *Narinder Singh & Ors. Vs. State of Punjab & Anr.* reported in **2014(6) SCC 466**; para 29.02 of the aforesaid judgment reads as follows:

“**29.2.** When the parties have reached the settlement and on that basis petition for quashing the criminal



proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any court.”

14. Even though offences under Section 467, 468, 471 of the Indian Penal Code are not compoundable.

15. Considering the circumstances and the fact that the complaint/opposite party no. 2 has already accepted Rs. 19 lakhs and is ready to accept further amount of Rs. 10 lakhs from the petitioners, whereafter he would not be desirous of prosecuting the petitioner any further, this Court is of the view that allowing this proceedings to be continued in the courts of law would only be an exercise in futility and therefore, an abuse of the process of the court. It would only be in the interest of justice that a quietus be given to the case *qua* the petitioners. While saying so, this Court has also taken into account the nature of accusation hurled against the petitioners.

16. Regard being had to the aforesaid facts and what has been stated above, the order of cognizance dated 15.01.2014 *qua* the petitioners as well as all the other proceedings emanating, therefrom, are quashed.

17. It is further made clear that in case payment of Rs. 10 lakhs is not made within the stipulated/promised time, it would be



open for the complainant/opposite party no. 2 to approach the court below for reviving the case.

18. The present petition is allowed and the order of cognizance dated 15.01.2014 so far as the petitioners are concerned is set aside.

(Ashutosh Kumar, J.)

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AFR/NAFR	AFR
CAV DATE	N.A.
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