

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38841 of 2014

Arising Out of PS.Case No. -2217 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. M/s Celsius Healthcare Pvt. Ltd., D-5, Meerat Road Industrial Area Gaziabad, U.P. through its Director namely Arvind Kumar,
 2. Mr. Arvind Kumar, Director of M/s Celsius Healthcare Pvt. Ltd., S/o Mr. Harish Chand, D-5, Meerat Road Industrial Area Gaziabad, U.P., resident of At-3, Kapil Bihar, Pitampura, Delhi,
 3. Mr. Rajnish Chadha, Director of M/s Celsius Healthcare Pvt. Ltd., S/o Sri Somnath Chadha, D-5, Meerat Road Industrial Area Gaziabad, U.P., resident of C-184, Sector-44, NOIDA,
 4. Mr. Sandeep Chadha, S/o Mr. Somnath Chadha, Director of M/s Celsius Healthcare Pvt. Ltd., D-5, Meerat Road Industrial Area Gaziabad, U.P., resident of R-86, Raj Kunj, Raj Nagar, Ghaziabad-201001.

.... Petitioner/s

Versus

1. The State of Bihar,
2. M/s B.S. Enterprises (Complainant), through its Proprietor Sh. Anup Kumar, S/o Shri Bajrang Lal, At 103-104, Abhishek Plaza, Exhibition Road, P.S. – Gandhi Maidan, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anirban Kundu, Advocate

For the Opposite Party No.1: Mr. S. Eheteshamuddin, APP

For the Opposite Party No.2: Ms. Parul Prasad, Advocate

Ms. Sushila Agarwal, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 09-07-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 03.02.2014 passed by the learned Judicial Magistrate, 1st class, Patna, in Complaint Case No. 2217 (C) of 2013 (Trial No. 2671 of 2013) by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offence under Section(s) 406 and 420 of Indian Penal Code.



Counsel for the petitioners submits that there is no criminal intent and the case is purely of civil dispute. There are no ingredients of Sections 406 and 420 Indian Penal Code. Learned Court below has passed the impugned order in mechanical manner.

Learned Counsel for the Opposite Party No.2 submits that the learned Magistrate after perusing statement of the witnesses recorded during enquiry and the allegation in the Complaint Petition found *prima facie* case against the petitioners. Counsel for the Opposite Party No.2 further submits that the allegations contain several disputed question of facts, which can only be properly adjudicated after proper trial.

This Court after looking into the impugned order finds that the Court below after looking into Solemn Affirmation of the Complainant, statement of two enquiry witnesses recorded under Section 202 Cr. P. C. and also perusing the materials available in the record has found *prima facie* case against the petitioners for the offence under Section(s) 406, 420 Indian Penal Code.

A report was called for from the Court below, which has been received. From the report of the Court below, it appears that these petitioners have not appeared in the Court below till date. A petition under Section 205 Cr. P. C. was filed on behalf of the petitioners, which is still pending for hearing.



Learned Magistrate is only required to see *prima facie* case at the time of holding enquiry under Section 202 Cr. P. C. on the basis of allegation made in the Complaint Petition and the statement of the witnesses recorded during enquiry.

This Court after perusing the allegation in the Complaint Petition, in detail, finds that the Court below after perusing entire allegation in the complaint as well as statement of the witnesses recorded during enquiry including Solemn Affirmation of the Complainant has found *prima facie* case against the petitioners.

Therefore, this Court does not find any illegality in the impugned order passed by the learned Court below.

This application is, accordingly, **dismissed**.

The petitioners are given liberty to raise all the points, as raised in the present application, at the time of framing of Charge, which shall be considered and disposed off by the learned Court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	16-07-2018
Transmission Date	16-07-2018

