

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.368 of 2016

Arising Out of PS.Case No. -344 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Pramod Kumar Singh S/o Sri Dina Nath Singh General Manager, IRCON International Ltd., Ganga Bridge, Digha Ghat, Digha, Danapur, Patna.
2. Virendra Prasad Singh S/o Late Bijali Prasad Singh at present Project Director, IRCON International Ltd., Sone Bhawan, 1st Floor, Daroga Prasad Rai Path, Patna - 1.

.... Petitioner/s

Versus

1. State of Bihar.
2. Union of India through Sri Sanjeev Kumar Verma, Labour Enforcement Officer, Office of the Regional Labour Commissioner, Maurya Lok Complex, 2nd Floor, A - Block, Room No. 6, 16 and 17, Patna 800001.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Siddhartha Prasad Mr. Om Prakash Kumar Mr. Kaustubh
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP
For UOI	:	Mr. Satyadarshi Sanjay Mr. Manoj Kumar Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 28-08-2018

Heard the learned counsel for the petitioners as well as
the State.

The present application has been filed for quashing the
order dated 19.05.2012 passed by learned Chief Judicial Magistrate,
Patna in Complaint Case No. 344(C)/12, whereby the court below has
found *prima facie* case for offences under Sections 23 and 24 of the
Contract Labour (Regulations & Abolition) Act, 1970 (*hereinafter*
referred to as 'The Act').



Learned counsel for the petitioners has submitted that as per complaint filed by the complainant vide Annexure-2, the construction site of Rail-cum-Road Bridge across river Ganga from Digha Ghat to Pahleja Ghat was inspected on 03.01.2012.

From the impugned order, it appears that complaint has been filed before learned Chief Judicial Magistrate, Patna on 28.03.2012. Learned Chief Judicial Magistrate, Patna has taken cognizance on 19.05.2012 against the petitioners.

The provision of Section 27 of Contract Labour (Regulations & Abolition) Act, 1970 speaks as further:

“Limitation of Prosecutions – No Court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector.”

It has been further submitted on behalf of the petitioners that cognizance has been taken on the printed form which shows non application of mind by Learned Magistrate.

This Court after looking into the complaint petition and also the impugned order finds that the impugned order dated 19.05.2012 has been passed on printed form. There is nothing to show that any application of mind was made by the learned Magistrate. It



further appears from the complaint petition that inspection was done on 03.01.2012 and the complaint was filed on 28.03.2012. Thereafter cognizance was taken on 19.05.2012.

Therefore, the impugned order passed by the court below is not in accordance with law.

Accordingly, the impugned order dated 19.05.2012 passed by learned Chief Judicial Magistrate, Patna along with the entire proceeding against the petitioners are hereby quashed.

This Criminal Miscellaneous is, accordingly, allowed.

(Sanjay Priya, J.)

Rakhi

AFR/NAFR	AFR
CAV DATE	N.A.
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