

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47502 of 2014

Arising Out of PS.Case No. -2346 Year- 2008 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. M/s. Sunshine Personal Care Pvt. Ltd., 11/1 New Palasia, P.S.- Palasia, District- Indore (Madhya Pradesh), at present 21/1, Snehlataganj, P.S.- M.G. Road, District- Indore (Madhya Pradesh) through its Director Rakesh Asthana,
 2. Rakesh Asthana, son of Late Vishwanath Prasad Asthna, resident of J/124, M.I.G. Colony, P.S.- M.I.G. Thana Indore, District- Indore, at present Director M/S Sunshine Personal Care Pvt. Ltd. 21/1, Snehlataganj, P.S.- M.G. Road, District- Indore (Madhya Pradesh),
 3. Pankaj Bhatnagar, son of Late Suresh Narayan Bhatnagar, resident of 15 Baibhav Nagar- A, P.S.- Kenadia Thana, District- Indore, Ex-General Manager, M/S Sunshine Personal Care Pvt. Ltd. 21/1, Snehlataganj, P.S.- M.G. Road, District- Indore (Madhya Pradesh)

.... Petitioner/s

Versus

1. The State of Bihar
2. Lalan Prasad (L.P. Sinha), son of Late Baleshwar Prasad, Manager M/S K.K. Sales, C/o Dr. M.K. Sahani, Shivpuri, P.S. Shashtri Nagar, District- Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Narain Verma, Advocate

For the Opposite Party/s : Mr. Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 25-06-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 27.01.2009 passed by the Judicial Magistrate, 1st class, Patna, in Complaint Case No.2346-C of 2008, by which the learned Magistrate after holding enquiry has found prima facie case against the petitioners for the offence under Section(s) 406, 420 Indian Penal Code.



Heard learned counsel for the petitioners as well as State.

Counsel for the petitioners submits that there was matter of money dispute between the parties on account of business. The matter has been settled outside the Court between the parties and compromise petition has also been filed in the Court below, which is annexed as Annexure-2.

Notice was issued to the Opposite Party No.2, which has validly been served, but none appeared on behalf of the Opposite Party No.2 during course of hearing of this application.

In the Complaint Petition, it is alleged that the Complainant entered into the agreement with M/s KSR Health Care Pvt. Ltd. to carry on the business of FMCG products as CSA and as per agreement the Complainant paid Rs.2,00,000/- through cheque. It is further alleged that petitioner No.1 along with accused No.2 approached the Complainant in March, 2006, and persuaded to work as Consignments Sales Agent with an assurance to get commission on behalf of M/s KSR Health Care Pvt. Ltd. The petitioner started to work as Consignments Sales Agent from April, 2006, but the accused persons failed to fulfill their commitment and after much request and demand the accused persons have not settled the account.



In this manner from the complaint itself, it appears that there was dispute of accounting between the parties. Compromise petition shows that dispute between the parties has been settled outside the Court.

In such circumstances, this Court is of the view that continuance of the criminal proceeding against the petitioners would be mere harassment and abuse of process of law.

In view of such, impugned order dated 27.01.2009 passed by the Judicial Magistrate, 1st class, Patna, in Complaint Case No.2346-C of 2008, along with entire criminal proceeding against the petitioners is hereby quashed.

This application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	03-07-2018
Transmission Date	03-07-2018

