

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58249 of 2015

Arising Out of PS. Case No.-518 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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1. M/s ThyssenKrupp Elevator (India) Pvt. Ltd. Plot No. 429, Functional Industrial Estate, Patparganj, P.S. Sakarpur Delhi - 110092 through its Assistant Manager, Ritesh Kumar son of Sri Bikrama Singh resident of Magistrate Road, Ashiana Road, P.S. Rajeev Nagar, District Patna.
 2. Amrendra Amar Nath Son of Sri R A Sharma resident of village Sherpur, P.S. Maner, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. M/s Pine Developers Pvt. Ltd. G/6, Tara Tower, Behind Hotel Republic, Exhibition Road, P.S. Gandhi Maidan, District Patna, through its Director Sri Prashant Kumar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate
Mr. Rana Vikram Singh, Advocate
For the Opposite Party/s : Mr. Yogendra Kumar (App)

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 06-07-2018

Heard Shri Sandeep Kumar, learned counsel appearing for the applicant. None appears for the respondent even though the matter is being adjourned for the last two weeks.

The is pending since 2015 and as proceedings before the court below have been stayed, I proceed to hear the matter and



decide the application under Section 482 of Cr.P.C. based on the materials available on record.

Seeking quashing of the order dated 17.6.2015 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No.518(C) of 2015 by which cognizance has been taken for the offence under Sections 406, 420, 468 and 120B of I.P.C.

This application has been filed under Section 482 of Cr.P.C. The applicant herein served in the respondent company, namely M/s. ThyssenKrupp Elevator (India) Pvt. Ltd. As its Area Manager stationed in Patna.

The respondent complainant is a developer and it is his case that for the purpose of development of certain apartments in the city of Patna, an agreement was entered into between the complainant and the applicant herein for the purpose of installation of Elevators in the Dev Kutir Apartment, Block-C. The agreement has been brought on record and it is said to have been executed on 5.12.2011 and a complete reading of the complaint goes to show that the grievance of the applicant is that in spite of payment of the amount, the Elevators have not been properly installed. After installation service has not been properly done and the Elevators are not functioning properly.



On the basis of the aforesaid ground, the complaint has been filed and the respondents have brought on record the communications which go to show that there is a dispute between the parties with regard to execution of the agreement in question and the matter is also pending consideration before the appropriate Consumer Forum.

Having heard learned counsel for the applicant and on going through the complaint, I find that except for making a civil dispute with regard to breach of agreement and the matter of dispute pertaining to installation of Elevators in the apartment in question, there is nothing available on record to show that the ingredients for constituting an offence under Sections 406, 468 or 120B of I.P.C. are made out.

It seems to be a civil dispute between the parties and a bare reading of the complaint does not make out a criminal offence with regard to dispute in question.

Keeping in view the aforesaid, I have no hesitation in holding that it is a civil dispute between the parties which is tried to be converted into a criminal offence only to harass the applicant and, therefore, it is a fit case where jurisdiction under Section 482 of Cr.P.C. be exercised and the impugned order quashed.



Accordingly, this application is allowed and the impugned order dated 17.6.2015 passed by the Judicial Magistrate, 1st Class, Patna in Complaint Case No.518(C) of 2015 by which cognizance has been taken for the offence under Sections 406, 420, 468 and 120B of I.P.C is quashed.

(Rajendra Menon, CJ)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17-07-2018
Transmission Date	17-07-2018

