IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.170 of 2016

Arising Out of PS.Case No. -1252 Year- 2014 Thana -MUZFFARPUR COMPLAINT CASE District- MUZAFFARPUR

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1. Mr. U.P. Sinha @ Udaya Prakash Sinha S/o Late K.M. Sinha, At present working as Chief Executive Officer, Ideal Dealers Pvt. Ltd., Bhagwanpur Chowk, NH- 28, Muzaffarpur- 842001

.... Petitioner/s

Versus

1. The State of Bihar
2. Gauri Shankar Prasad S/O- Bhuvaneshwar Prasad, R/o Mishraulia, Chandanpatti, Thana- Sakra, District- Muzaffarpur, Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dayanand Singh

For the Opposite Party/s : Mr. H.A. Khan (APP)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 14-08-2018

Heard the learned counsel for the petitioner, the informant as well as the State.

2. The petitioner seeks quashing of the order dated 13.08.2014 passed by the learned Chief Judicial Magistrate, Muzaffarpur in Complaint Case No. 1252/2014, whereby the court below has found *prima facie* case for offences under Sections 406, 420 and 120B of the Indian Penal Code.

3. In the instant case, allegation has been made by the complainant that he had purchased Tata LP410 Bus from Ideal Dealers Pvt. Ltd. The vehicle after purchase was plying on the road after doing necessary registration. The engine of the vehicle all of

sudden blasted on 24.04.2012 and it became non-functional. The complainant made complaint to the Manager of Ideal Dealers Pvt. Ltd. The Manager, Ideal Dealers Pvt. Ltd. told that eight blank cheques is to be given for safe payment of loan amounts and thereafter necessary repair of the engine could be done. It is further alleged that under coercion of the Manager, Ideal Dealers Pvt. Ltd, the complainant gave eight blank cheques without date. It is alleged in the complaint petition that accused no. 1 had obtained eight cheques having signature of the complainant with wrong intention. Further it has been alleged that when complainant requested to return the aforesaid eight cheques, the accused persons refused and threatened him.

4. Learned counsel for the petitioner has submitted that at the relevant time, petitioner was not the Manager but was working as Chief Executive Officer, Ideal Dealers Pvt. Ltd. The petitioner has never interacted directly with the customers on day to day basis. He only takes policy decision and review the work with officers of the company. There is no any specific allegation against this petitioner in the entire complaint petition. The allegation has been levelled against the Manager, Ideal Dealers Pvt. Ltd. It has been submitted that petitioner or Ideal Dealers Pvt. Ltd. has nothing to do with the concerned cheques. Ideal Dealers Pvt. Ltd. is an authorized dealer of

Tata Motors Limited, which has been authorized to sell the vehicles.

5. The complainant has admitted in complaint petition that he had taken loan for vehicle and the loan had been financed by Tata Motors Finance Limited and at the time of entering into Loan-cum-Hypothecation agreement, security cheques were taken by financer and not by dealer of Tata Motors Limited.

6. Learned counsel for the petitioner has submitted that for the same relief, the complainant had filed a case before the Consumer Forum vide Complaint Case No. 34/2013, which was withdrawn. He had withdrawn the case as the financer had filed photocopy of statement showing "Zero Outstanding" against the complainant. It is further submitted that there is no any allegation in the entire complaint petition that this petitioner has ever misused those eight blank cheques. It is further submitted that the averment made in complaint petition that complainant had handed over the cheques to accused no. 1, who has been described as Manager, M/s Ideal Dealers Pvt. Ltd. The petitioner was not working as Manager. He is Chief Executive Officer of Ideal Dealers Pvt. Ltd.

7. From the entire allegation in the complaint petition, this Court finds that there is no unlawful loss caused to the complainant or unlawful gain made by the petitioner. This Court finds that there is no allegation that petitioner has misused the eight blank

cheques alleged to be given by complainant to the petitioner.

8. Therefore, the impugned order passed by the learned Magistrate is not in accordance with law.

9. Accordingly, the impugned order dated 13.08.2014 passed by the learned Chief Judicial Magistrate, Muzaffarur along with entire criminal proceeding against the petitioner is hereby quashed.

10. This Criminal Miscellaneous is accordingly allowed.

(Sanjay Priya, J.)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	21.08.2018
Transmission Date	21.08.2018