

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11876 of 2016

Arising Out of PS. Case No.-563 Year-2014 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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Subodh Kumar Verma, S/o late Ram Chandra Prasad Verma, resident of
Village-Mishraulia, P. S. -Sakra, District- Muzaffapur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Baidyanath Chaurasia, S/o Ram Anandi Bhagat, resident of Village -Gadama
Batanta, P.S. -Lalganj, District Vaishali, Proprietor M/s Jay Maa Ambika
Traders, Tinpulwa, Chowk, P.S.- Lalganj, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Singh, Advocate
For the State	:	Mr. Rajendra Singh Shastri, A.P.P.
For the Opposite Party/s	:	Mr. Rajesh Ranjan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-03-2019

Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for opposite party no. 2.

2. The petitioner has moved the Court under
Section 482 of the Code of Criminal Procedure, 1973
(hereinafter referred to as the 'Code') for the following relief :

*“For quashing of the order of cognizance dated
02.07.2014 passed by learned Judicial Magistrate Ist
Class, Vaishali, Hajipur.”*

3. The allegation against the petitioner and three
others is that their Company entered into agreement with the
company of opposite party no.2 (hereinafter referred to as the



“O.P.”), for supply of mustard oil for which security money was taken but when the oil was not supplied, the agreement was cancelled and cheque of Rs. 4,11,000/- was given to the O.P., which was dishonoured.

4. Learned counsel for the petitioner submitted that the agreement of the O.P. was with the Company of which two other accused are the Managing Director/Director. It was submitted that the petitioner was only a paid employee of the Company of the other co-accused and further that the agreement was entered into between the O.P. and other co-accused and also the same was cancelled not by the petitioner but by the other accused. Similarly, it was submitted that even the cheques which were issued in favour of the O.P., the same were by the other co-accused being the Managing Director/Director of the Company in which the petitioner was employed. Learned counsel submitted that the case basically relates to allegation of cheating by not supplying mustard oil by the Company to the O.P. can at best be attributed to the Company and its owners but not to the petitioner who was the Regional Sales Manager at Muzaffarpur.

5. Learned A.P.P. was not in a position to controvert the submissions of learned counsel for the petitioner.

6. Learned counsel for the opposite party no. 2



submitted that against the petitioner, there are more than a dozen cases of similar nature and that he is involved in such activity. However, on a direct query of the Court as to what role is assigned to the petitioner when the agreement as well as issuance of cheque was by the Managing Director of the Company and not the petitioner, who admittedly, was only the Regional Sales Manager, i.e., a paid employee, so as to justify the criminal prosecution against him, there was no answer.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out.

8. As has rightly been submitted by learned counsel for the petitioner, no criminal act can be attributed to him for the reason that even if the averments made in the complaint are accepted on their face value, at best, it would be against the other co-accused who being the Managing Director/Director of the Company, and who are the owners of the Company, and further, it was they who had entered into an agreement and had also issued the cheque in favour of the O.P. Thus, the Court does not find that any criminal proceeding against the petitioner is fit to proceed based on the averments made in the complaint in the present case. For the wrongdoing of a Company, its officers may



be responsible, but not to the extent that all the employees of a Company would be criminally liable. In the present case, at the cost of repetition, the Court finds that it was only the other co-accused in the capacity of Managing Director/Director of the Company, who are also the owners of the Company, and who have either got into an agreement with the O.P. or cancelled the agreement or had issued the cheques in favour of the O.P., which are said to have been dishonoured, can be held accountable for such non-encashment of the cheques.

9. For reasons aforesaid, the application is allowed. The entire criminal proceeding arising out of Complaint Case No.563 of 2014 pending before the court below at Hajipur (Vaishali), as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28-03-2019
Transmission Date	N/A

