

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.888 of 2018

Arising Out of PS. Case No.-287 Year-2013 Thana- BUDDHACOLONY District- Patna

1. Medasetti Srinivasaiah @ Mister M. Srinivasan s/o Late Medasetti Nariyappa, r/o 1128-A, Coard, 15, Hospet, District Bellary, Karnataka.
2. B. Ramakrishna Shetty @ B.R. Shetty, s/o Thimappa Shetty, r/o No. 35, Cottonpet Main Road commencing at Santala Silks, Opposite KEB Office, Bangalore-560003.
3. Nagaraju G. @ Mister Nagaraju G., s/o G.T. Gopalkrishniah, r/o 628, 1B Main Road, 7th Block West, Jayanagar, Bangalore, Karnataka, PIN-560082.
4. B. Ramaswamy @ Mister B. Rama Swamy, s/o Belerangappa, resident at Railway Gollahally, Kasaba, Hobli, Nelamngala Taluk Bangalore, Rural District, Karnataka, PIN-562123.
5. B. Krishnaswamy @ Mister B. Krishan Swamy s/o Belerangappa, resident at Railway Gollahally, Kasaba, Hobli, Nelamngala Taluk Bangalore, Rural District, Karnataka, PIN-562123.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Lakshmi Cement and Ceramics Industries Ltd. having its registered office at C/o Mr. Sanjeev Ranjan, Shristi, Road No. 23, Shrikrishna nagar, Patnat-800001, Bihar, through its employee namely Sri Jitendra Kumar,

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Adv
For the State	:	Mr. Sri Pradeep Narain Kumar, APP
For the O.P. No. 2	:	Mr. Maruth Nath Roy, Adv & Mr. Manoj Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 02-12-2019

Heard learned counsel for the parties.

This criminal miscellaneous petition under Section 482
of Cr.P.C has been filed for quashing the order dated 23.01.2017



passed by learned Judicial Magistrate-1st Class, Patna, by which cognizance has been taken against the petitioners for the offences punishable under Sections 406, 420, 467, 468/34 of IPC arising out of Buddha Colony P.S. Case No. 287 of 2013 dated 31.12.2013.

Notices were issued to the complainant who has appeared and has filed counter affidavit stating therein that the matter has been amicably settled between the parties and same has been accepted by the petitioners by filing supplementary affidavit. It has also been brought to the notice of this Court that in a case of similar nature with similar allegation between the same parties, a co-ordinate bench of this Court had quashed the order taking cognizance arising out of Buddha Colony P.S. Case No. 6 of 2011 in Criminal Miscellaneous No. 11662 of 2012 by order dated 11.04.2018 and present case being of similar nature, same may be disposed of in similar terms.

A co-ordinate bench of this Court in Criminal Miscellaneous No. 11662 of 2012 had quashed the order dated 18.01.2012 passed by learned Chief Judicial Magistrate, Patna, taking cognizance against the petitioners under Section 406, 420, 467, 469, 120B and section 34 of IPC arising out of Buddha Colony P.S. Case No. 6 of 2011 on the basis of



amicable settlement between the parties. The order dated 11.04.2018 passed in said case is extracted below:-

“Heard learned counsels for the parties.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 18.01.2012, passed by learned Chief Judicial Magistrate, Patna in connection with Budha Colony P.S. Case No. 06 of 2011, whereby and whereunder cognizance has been taken against the petitioner for the offence under sections 406, 420, 467, 469, 120B and section 34 of the Indian Penal Code.

Learned counsel appearing for the petitioner submits that there is commercial dispute between the parties with regard to Lakshmi Cement and Ceramics Industries. It is alleged that petitioner even after resigning from the post of Director represented himself as the Director and sold the cement plant of the company without permission of the stakeholders.

Learned counsel, however, submits that the matter has been compromised between the contesting parties and a Memorandum of Understanding/Settlement Agreement has also been executed, as stated in paragraph 6 of the supplementary affidavit filed on behalf of the petitioner. Learned counsel has brought on record the aforesaid Memorandum of Understanding/Settlement Agreement as Annexure-7 to the aforesaid supplementary affidavit. Learned counsel, therefore, submits that continuance of the present proceeding would be an abuse of the processes of the Court and prays that the entire proceedings as well as the order taking cognizance may be quashed.

From perusal of the materials available on record and the submissions as made above, it is evident that the matter has been compromised between the parties and there remains no dispute between them. The Hon'ble Supreme Court in the case of Gian Singh Versus State of U.P., reported in (2012) 10 Supreme Court Cases 303 has laid down the law that criminal proceedings may be quashed even in non-compoundable cases by the High Court in exercise of its extraordinary jurisdiction to restore peace between the parties and in case the justice so demands. According to the Hon'ble Supreme Court, if the offence involve private dispute between the parties of commercial



nature or matrimonial dispute and it is not related to a heinous offence, the proceedings may be quashed.

In view of the discussions, as made above, this Court is of the considered opinion that continuance of the present prosecution would be an abuse of the processes of the Court. Accordingly, the entire proceedings including the order taking cognizance dated 18.01.2012, passed by learned Chief Judicial Magistrate, Patna in connection with Buddha Colony P.S. Case No. 06 of 2011 is, hereby, quashed.

The application, accordingly, stands allowed.”

Accordingly, the order dated 23.01.2017 passed by learned Judicial Magistrate-1st Class, Patna, by which cognizance has been taken against the petitioners for the offences punishable under Sections 406, 420, 467, 468/34 of IPC arising out of Buddha Colony P.S. Case No. 287 of 2013 dated 31.12.2013, is quashed.

The Criminal Miscellaneous Petition is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2020
Transmission Date	31.03.2020

