

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24934 of 2014

Arising Out of Case No.-916 Year-2013 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. Mohanlal Agrawal @ Mohanlal son of Kharaitilal Agrawal Agrawal Trading Company, New Anaj Mandi, Khanna, Ludhiana, Punjab
 2. Shishpal
 3. Sanjeev Kumar
petitioner nos. 2 & 3 are sons of Balbir Chand Goyal Khanna Trading Company, New Anaj Mandi, Shop no. 478, Khanna, Ludhiana Punjab
 4. Hardeo Singh @ Billu Son of Dalbara Singh resident of Village Rano, P.S-
Reyal, District- Ludhiana Punjab

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Shiv Mohan Pathak Son of Late Ram Eqbal Pathak resident of Village
Baheri, P.S- Kargahar, District- Rohtas. Proprietor of Laxmi Narayan Mini
Rice Mill, Kargahar, Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate with Mr. Lakshmi Kant Sharma, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the O. P. No. 2	:	Mr. Sanjay Kumar Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 26-02-2019

Heard Mr. Ramakant Sharma, learned senior counsel
along with Mr. Lakshmi Kant Sharma, learned counsel for the
petitioners; learned A.P.P. for the State and learned counsel for the
opposite party no. 2.

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



“That, petitioners are invoking the extraordinary jurisdiction of this Hon'ble Court for quashing the order dated 02.12.2013, passed by Sri S.P. Maurya, learned Judicial Magistrate 1st Class, Kaimur at Bhabhua in Complaint Case No. 916/2013 whereby and whereunder cognizance for the offence under Section 420/34 of the Indian Penal Code was taken against the accused petitioners and two others.”

3. The allegation against the petitioners is that they had induced the opposite party no. 2 to supply huge amount of grains and despite the same having been sent to them, the money, as promised, was not given and when the opposite party no. 2 had gone to meet them, they refused to make payment.

4. Learned counsel for the petitioners submitted that earlier the Court had granted time and had indicated that the matter be settled between the parties, but despite his best efforts, the petitioners could not be contacted. He further submitted that even the numbers, which were given to him at the time when the case was filed, are no more reachable which indicates that probably the same are not in operation. He further submitted that the petitioners have not bothered to be in touch with him, especially, after the Court had granted interim protection by order dated 30.01.2018.

5. Learned A.P.P. and learned counsel for the opposite party no. 2 submitted that he is not the only person aggrieved as



large number of farmers in the districts of Kaimur, Rohtas and Aurangabad have been duped by such persons.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the intention of the petitioners cannot be said to be *bona fide*, despite them having been granted indulgence by the Court and after being allowed interim protection, they have not bothered to be in touch with learned counsel which, in turn, led to non-cooperation in judicial proceeding and still the Court having been indulgent on the last few occasions by giving opportunity as also learned counsel for the opposite party no. 2 helping and providing learned counsel for the petitioners by giving probable numbers on which they could be contacted, the same not being successful, the Court finds that the petitioners, by such conduct, are not entitled for any indulgence. Moreover, from the facts which have been narrated in the complaint and what has transpired during enquiry conducted by the Court below, it cannot be said, at least at this stage, that the order taking cognizance against the petitioners is either beyond jurisdiction or perverse, requiring interference. The Court would observe that the petitioners have full opportunity of placing their defence at various stages in the case which, if they so desire, they may resort to.



7. In view of the aforesaid position, the application stands dismissed. The interim stay granted by order dated 30.01.2018 stands vacated. The Court below shall now proceed in the matter, in accordance with law, expeditiously, keeping in mind the fact that the case pertains to the year 2013.

8. In view of what has transpired before the Court, under its inherent jurisdiction under Section 482 of the Code, for securing the ends of justice and for preventing the abuse of the process of the Court, it is deemed appropriate to direct the Court below to ensure that the trial proceeds, in accordance with law, without any delay. If the Court finds any difficulty in getting the accused (present petitioners) to appear before it for the purposes of conducting the trial, it shall call upon the Superintendent of Police, Rohtas for ensuring the presence of the accused. If such request goes from the Court to the Superintendent of Police, Rohtas, he shall be obliged to ensure that proper and effective steps are taken, in accordance with law, for securing the presence of the accused before the Court.

(Ahsanuddin Amanullah, J)

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