

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36213 of 2014

Arising Out of PS. Case No.-1877 Year-2011 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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1. Rameshwar Prasad Sinha @ R.P. Sinha, S/o Late Jageshwar Prasad Sinha ,
R/o village - High School , Para , P.O+P.S. -Katihar , District - Katihar .
 2. Vinay Kumar Mishra S/o Sri Chandrakant Mishra , Village - Jhaguruchak,
P.S.-Falaka, District - Katihar .

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Vishawanath Dubey, S/o Late Ramashish Dubey , R/o mohalla - Goshala ,
P.S. Katihar P.O. Sahayak, District - Katihar .

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate Dhananjay Kr. Gupta, Advocate
For the State	:	Mr. Md. Arif, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-01-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Despite service of notice and name of learned counsel
for the opposite party no. 2 appearing in the cause list, nobody
appeared when the matter was taken up and heard.

3. Even on 10.01.2019, when the matter was last taken
up, learned counsel for the opposite party no. 2 had not appeared.

4. 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 this application is being filed for quashing the order dated 14.06.12 passed by CJM, Katihar in Complaint case no. 1877/11 by which order Ld. Magistrate has been pleased to took cognizance U/S 406, 420, 467 & 120(B) of I.P.C.”

5. As per the allegation, the opposite party no. 2, who is the complainant, has alleged that the petitioner no. 1, being the Managing Director of Bharat Bharati (Educational) Service Institution, Katihar which is an N.G.O., and of which the complainant was the Chairman and petitioner no. 2 Member, have not distributed the amount received from the Government to him.

6. Learned counsel for the petitioners submitted that the N.G.O. had performed certain jobs for the Forest Department of the State Government and in lieu of that money was received. Learned counsel submitted that there is no allegation from the State Government/Department with regard to non-completion of the works or with regard to any defalcation and it is an internal grievance raised by the complainant that the amount has not been given to him by the petitioners. Learned counsel submitted that this being a purely civil dispute, as it relates to distribution of money among the partners /office bearers of the concerned



N.G.O., the institution of the complaint case is clearly an abuse of the process of the court.

7. Learned A.P.P. was not in a position to controvert the stand taken by learned counsel for the petitioners.

8. 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.

9. A purely civil dispute with regard to distribution of money among the office bearers of the N.G.O. concerned cannot be said to be in the nature of any criminal offence as it is a pure and simple money dispute and that too among the office bearers of the concerned N.G.O. For such, the common civil law is the only remedy by filing money suit, if anybody is aggrieved by any payment or money not paid to him against the person, who according to him, is required to pay the amount. In this connection, the Court would refer to the decision of the Hon'ble Supreme Court in the case of **Indian Oil Corporation v. NEPC India Ltd.** reported as **(2006) 6 Supreme Court Cases 736**, where at paragraph no. 13 it has been held as under:

“13.....Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.....”



10. The Court finds that the present is a case where a purely civil dispute by filing of the present complaint case is an abuse of the process of the court and in which the Court under its inherent power under Section 482 of the Code is required to be interfere.

11. For reasons aforesaid, the application is allowed. Complaint Case No. 1877 of 2011 along with order dated 14.06.2012 by which cognizance has been taken against the petitioners stands quashed.

(Ahsanuddin Amanullah, J)

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