GAHC010159082018

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./695/2018

HAPPYMONI BISHAYA
W/O SRI ASHOK KUMAR BISHAYA, R/O M.C. ROAD UZANBAZAR, PO UZANBAZAR, PS LATASIL, DIST. KAMRUP (METRO), ASSAM, PIN-781001

VERSUS

THE HDFC BANK LTD.
HAVING ITS OFFICE AT PIBCO BUILDING, 1ST FLOOR, G.S. ROAD, RUKMINIGAON, KHANAPARA, GUWAHATI-22, REPRESENTED BY ITS AUTHORISED SIGNATORY JAGAT CHUTIA

Advocate for the Petitioner : MR. S K SINGHA

Advocate for the Respondent : Mukesh Sharma

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

Date : 02-12-2020

Heard Mr. B. Kumar, learned counsel for the petitioner and Mr. M. Sharma, learned counsel for the respondent.

By this petition u/s 482 CrPC, the petitioner prays for quashing the criminal proceeding in C.R. Case No. 2888/2017 under Section 25 of the Payment and Settlement Act, 2007 read

with Chapter XVII of the NI Act pending before the Court of Judicial Magistrate 1st Class, Kamrup(Metro).

The respondent filed a complaint against the proprietorial firm M/S Jyoti Gas Agency, wherein the petitioner has been shown as the person authorized to represent the M/S Jyoti Gas Agency. Acting on the said complaint filed by the respondent against M/S Jyoti Gas Agency, the learned Magistrate took cognizance and issued process.

Learned counsel for the petitioner, Mr. B. Kumar submits that the petitioner is no way connected with the accusation made in the complaint, inasmuch as, the petitioner neither issued the cheque, nor she is anyway connected with the firm "M/S Jyoti Gas Agency". Learned counsel further submits that the complainant lodged another complaint against M/S M/S Jyoti Gas Agency showing the petitioner as the representative, which was also challenged by way of criminal petition and the complainant agreed to withdraw the complaint having come to know the fault of the bank in filing the complaint against the present petitioner.

Learned counsel for the respondent, Mr. Sharma submits that due to inadvertence, complaint was lodged against the present petitioner as an accused showing her as authorized representative of M/S Jyoti Gas Agency, whereas, she was neither the proprietor of M/S Jyoti Gas Agency involved in the instant case, nor the cheque was signed by her. It is further submitted by Mr. Sharma that having realized the inadvertent mistake, the respondent bank would like to withdraw the complaint presently pending before the learned Magistrate with liberty to file a fresh complaint against the appropriate persons involved in the alleged offence.

In view of the above submission of the learned counsel for the respondent, Mr. Sharma, learned counsel for the petitioner Mr. B. Kumar submits that if the respondent undertake to withdraw the complaint against the present petitioner, the petitioner would not like to press this criminal petition.

Having considered the submission made by the learned counsel for both the sides and upon undertaking given by Mr. Sharma for and on behalf of the respondent bank to withdraw the complaint (C.R. Case No. 2888/2017), the respondent/complainant is given the liberty to

approach the learned Magistrate for withdrawal of the complaint by filing appropriate application.

Relying on the undertaking given by the learned counsel, Mr. Sharma to withdraw the complaint pending before the learned Magistrate, Mr. Kumar, learned counsel for the petitioner also submits that he does not want to press this petition.

Having regard to the facts of the case and the submission made by the learned counsel, the criminal petition is closed, keeping the right and liberty of the parties to institute further proceeding in accordance with law in respect of the transaction involved in the instant case.

The criminal petition is accordingly disposed of.

JUDGE

Comparing Assistant