GAHC010159102018

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

Case No. : Crl.Pet./694/2018

HAPPYMONI BISHAYA
W/O SRI ASHOK KUMAR BISHAYA
RESIDENT OF M C ROAD, UZAN BAZAAR
PO UZAN BAZAR, PS LATASIL
DIST KAMRUP M ASSAM
781001

VERSUS

THE HDFC BANK LTD.
HAVING ITS OFFICE AT PIBCO BUILDING, 1ST FLOOR, GS ROAD,
RUKMINIGAON, KHANAPARA
GUWAHATI 22
REPRESENTED BY ITS AUTHORISED SIGNATORY JAGAT CHUTIA, AGED
ABOUT 33 YEARS

Advocate for the Petitioner : MR. S K SINGHA

Advocate for the Respondent : Mukesh Sharma

BEFORE
HONOURABLE MR. JUSTICE MIR ALFAZ ALI

ORDER

16.12.2020:

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

2. This application under Section 482 Cr.P.C. has been filed by the petitioner praying for quashing the criminal proceeding in CR Case No.913/2017 under Section

25 of the Payment and Settlement Systems Act, 2007 read with Section Chapter XVII of the Negotiable Instrument Act pending before the Court of Judicial Magistrate, First Class, Kamrup (Metro), Guwahati.

3. The respondent herein filed a complainant against the proprietorial firm M/s Jyoti Gas Agency, where in petitioner has been shown as the person authorized to represent the accused firm M/s Jyoti Gas Agency. Acting on the said complainant filed by the respondent, learned Magistrate took cognizance and issued process to the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is no way connected with the accusation made in the complaint lodged by the respondent in CR Case No.913/2017. Learned counsel for the respondent has also very fairly conceded that the petitioner was not involved in the matter and inadvertently she has been shown as the authorized person to represent M/s Jyoti Gas Ageny. It is also submitted by the learned counsel for both the sides that there were some other cases including CR Case No.2888/2017 against M/s Jyoti Gas Agency, where also the petitioner has been impleaded as authorized person. However, having realized the inadvertent error in the complaint, the respondent has taken steps for withdrawing those cases to file fresh complaint against the person responsible for the offence and upon undertaking by the learned counsel for the respondent, criminal petitions filed by the petitioner against those proceedings, were disposed of.

5. In view of the above, learned counsel for both the sides submit that this petition may also be disposed of in terms of the order passed in Crl.Pet. No.695/2018.

6. In Crl.Pet No.695/2018, between the same party and involving the same issue, was disposed of by this Court. The operative part of the order passed in Crl.Pet. No.695/2018 is reproduced herein below:

"XXXXXXXXXXXX

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.

XXXXXXXX"

7. Thus, on the basis of the submission made by the learned counsel for both the sides, this Criminal Petition is closed and disposed of in terms as indicated above.

JUDGE

Comparing Assistant