

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.38750 of 2015

Arising Out of PS. Case No.-651 Year-2013 Thana- BEGUSARAI COMPLAINT CASE

District- Begusarai

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1. Ashish Singh son of Late Vijendra Singh, resident of B-1, Kalindi Colony, New Delhi- 110065
 2. Praveen Shah, son of Late Har Narayan, resident of M/51, Saket, New Delhi
 3. Manoj Dassani, son of C.R. Dassani, resident of 18/603, Heritage City, Gurgaon, Haryana

... .. Petitioner/s

Versus

1. State Of Bihar
2. Amarnath Singh, son of Vishundeo Singh, resident of Village Bihat, Maksarpur Tola, P.S. Barauni, District Begusarai, partner in M/s. Amar Construction

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lakshmi Kant Sharma

For the Opposite Party/s : Mr.T.P.Mandal App

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

10 19-10-2023 1. Petitioners, by by filing this application have invoked the extraordinary jurisdiction of this Court with prayer to quash the order dated 16.05.2015 passed by Ad hoc Additional Sessions Judge I, Begusarai dismissing Cr. Revision No. 2 of 2013, preferred against the order dated 31.10.2013 passed by Chief Judicial Magistrate, Begusarai in Compliant



Case No. 651C of 2013 whereby and whereunder learned Magistrate was pleased to take cognizance against the accused petitions for the offences under Sections 420, 406 and 120B of the Indian Penal Code.

2. The facts of the case, in short, is that opposite party no. 2 lodged a written complaint before the Chief Justice Magistrate, Begusarai on 04.04.2013 with regard to occurrence from 06.05.2010 to 03.04.2013 alleging therein inter alia that he is partner of Ms. Amar Construction has engaged himself in contract work. Accused Nos. 1 and 2 are partners of D.N.A. Infrastructure Pvt. Ltd., Accused No. 3 is Chief Executive Officer and Accused No. 4 is Chief Accounts Officer. Aforesaid company got contract of construction of roads under Prime Minister Rural Road Development, Begusarai and in this connection on 02.05.2010. Accused No. 3 i.e. Manoj Dassani and Accused No. 4 Bipin Saluja came to his place and requested him to become petty contraction for construction of two roads i.e. Srinathpur-Katahri Road to Bishunpur and L-50 to Azadnagar. On suspicion they also arranged a talk with Accused No. 2 Ashish Singh, the Director of the Company and agreed for written agreement. Opposite party no. 2 agreed and gave him two work orders and on their faith signed the two orders which



was also signed by accused Manoj Dassani. The estimated cost of the contract was Rs. 01,67,66,040/- and another was for Rs. 22,89,736/-. Opposite party no. 2 started contract work and on 21.07.2011 against the works executed he submitted three bills amounting to Rs. 28,38,464/- out of aforesaid Rs. 13,30,000/- were paid to the complainant. After earth work was complete materials worth Rs. 30,00,000/- were dropped at the work site and remained requesting for unpaid bill of Rs. 15,08,464/- and again payment of Rs. 01,75,000/- was made and even after repeated request Rs. 13,33,464/- has not been paid. Accused persons have also closed their office at Begusarai and when opposite party no. 2 went to the work site found that materials have also been lifted and accordingly they caused loss to him of Rs. 43,33,464/-. He went to Delhi and requested for payment but in vein and ultimately they refused to make payment.

3. On the basis of the aforesaid complaint, Complaint Case No. 651 C of 2013 was registered and complainant was examined on solemn affirmation. In support of his case complainant examined P.W. 1 Manish Kumar, P.W. 2 Prem Nath Singh and P.W. 5 Rajeev Kumar as enquiry witness under section 202 Cr.P.C. On the basis of the facts and evidence of the case, the learned Magistrate took cognizance of the offence



under section 406, 420, 120B of the Indian Penal Code.

4. Petitioners preferred Cr. Revision No. 2 of 2013 which was finally heard by Ad hoc Additional Sessions Judge I, Begusarai, who vide his order dated 16.05.2015 was pleased to dismissed the revision application.

5. Heard both the sides and perused the record.

6. The Full Bench of the Hon'ble Supreme Court in the case of Murari Lal Gupta Vs. Gopi Singh (2005) 13 SCC 699, the facts of which is similar to the fact of the present case, has held that where agreement is executed, it cannot be said that the application has cheated and a prima facie case is made out. On basis of the facts of the case, it was also said that the purpose of filing a case in Madhepura on a resident of Delhi is to put pressure on the applicant to work as per the terms of the complainant. On the basis of the above grounds, the cognizance order was quashed.

7. The facts of the present case is also similar. Here also there is a matter of payment of dues and the complaint has been filed in Begusarai on the resident of Delhi.

8. Accordingly, in light of the aforesaid decision of the Hon'ble Supreme Court, the present appeal is allowed. The order dated 16.05.2015 passed by Ad hoc Additional Sessions



Judge I, Begusarai dismissing Cr. Revision No. 2 of 2013, preferred against the order dated 31.10.2013 passed by Chief Judicial Magistrate, Begusarai in Compliant Case No. 651C of 2013 is, hereby, quashed.

(Arvind Srivastava, J)

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