

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51058 of 2015

Arising Out of PS. Case No.-3342 Year-2013 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

-
1. Pawan Kumar Poddar @ Pawan Poddar son of Late Tejpal Poddar.
 2. Abhishekh Poddar, son of Pawan Kumar Poddar,
Both Residents of village- Katra Bazar, P.S.- Bhagwan Bazar, District- Saran
... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Rajesh Kumar Agrawal S/o Sri Mahavir Prasad Agrawal Prop. of M/s Sunil
Textiles, r/o Suttapatti, P.S.- Muzaffarpur Town, Distt.- Muzaffarpur
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 20-03-2023 Heard the parties.

The present petition has been preferred for quashing of the order dated 24.07.2015 passed by learned XIth Additional Sessions Judge, Muzaffarpur in Cr. Rev. No.210 of 2014 and the order dated 17.09.2014 passed by learned Judicial Magistrate, Muzaffarpur whereby and whereunder took cognizance under Sections 406/34 of the IPC.

The complainant had alleged that the accused persons approached them who are in the textile business being proprietor of M/s Sunil Textile while the accused persons have a business concerned as M/s Abhishek Trading Company at Sahebganj Bazar, Chapra.



The accused persons approached them between 30-10-2007 and 06-02-2008 and got cloth worth Rs.1,50,489/- at Muzaffarpur.

However, on continuous demand, only on 26-03-2012 a sum of Rs.2000/- was provided to the complainant and the sale proceed worth Rs.1,48,489/- was never paid. Even the cloth that were given to the accused persons was not returned. Accordingly, the complaint.

Learned counsel for the petitioners submit that admittedly the period alleged in the complaint is between 30.10.2007 and 06-02-2008 and as such Section 468 of the Cr.P.C. will come into play as the complaint was lodged in December, 2013 which is beyond three years period prescribed for punishment under which they have been made accused. He further submits that in any case, it is matter of civil nature and filing of the complaint is/was unwarranted and in that view of the matter the order dated 24.07.2015 Cr. Rev. No.210 of 2014 by the court of learned XIth Additional Sessions Judge, Muzaffarpur needs to be interfered with.

Mr. Bharat Bhushan, learned APP on the other hand submits that a perusal of the complaint would show that the complainant has averred that on 26.03.2012 a sum of Rs.2000/-



was given to the complainant and as such the period has to be calculated with effect from March, 2012 and in that background the complaint lodged in December, 2013 certainly is not in the teeth of Section 468 of the Cr.P.C.

He further submits that the intention to cheat is there in the complainant itself as the accused persons who are also in the business of cloth after taking the materials from the complainant side chose not to make payment and in that backdrop the petition is fit to be dismissed.

This Court has gone through the facts of the case, the materials on record and the averments made by the respective parties and finds force in the contention put forward by the learned APP. The last date that finds incorporated in the complaint petition is 26-03-2012 when a sum of Rs.2000/- was returned to the complainant and as such the submission put forward by the learned counsel for the petitioners that the period be calculated with effect from 06.02.2008 is fit to be rejected.

The Court further finds force in the second submission that certainly it cannot be clubbed in the category of civil case when the intention to cheat the complainant is there. Thus, the reasoned order dated 24.07.2015 passed by learned XIth Additional Sessions Judge, Muzaffarpur in Cr. Rev. No.210



of 2014 needs no interference.

The petition preferred under Section 482 of the
Cr.P.C. is rejected.

(Rajiv Roy, J)

Prakash Narayan /-

U		T	
---	--	---	--

