

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36725 of 2016

Arising Out of PS. Case No.-3974 Year-2009 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Upendra Prasad Sinha (CEO) @ U.P. Singh, S/o Late K.M. Sinha. At present Working as Chief Executive Officer, Ideal Dealers Pvt. Ltd., Bhagwanpur Chowk NH- 28- Muzaffarpur-842001.

... .. Petitioner

Versus

1. State Of Bihar.
2. Chandan Kumar Singh S/o Mithilesh Kumar Singh, Village- Vishunpur, Naya Tola, P.O- Mahnaar Road, R.S. Thana- Mahnaar, Jila- Vaishali.

... .. Opposite Parties

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with
CRIMINAL MISCELLANEOUS No. 40795 of 2016

Arising Out of PS. Case No.-3974 Year-2009 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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Mr. Bijay Pathak @ Vijay Pathak, S/o Late Kanhaiya Lal Pathak, At present Working as General Manager, Ideal Dealers Pvt. Ltd., NH- 28, Bhagwanpur Chowk, Muzaffarpur- 842001.

... .. Petitioner

Versus

1. State Of Bihar
2. Chandan Kumar Singh S/o Mithilesh Kumar Singh, resident of Village- Vishunpur, Naya Tola P.O.- Mahnaar Road, R.S. Thana- Mahnaar, Jila- Vaishali.

... .. Opposite Parties

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 36725 of 2016)

For the Petitioner : Mr. Dayanand Singh, Advocate
For the Opposite Partys : Smt. Suman Kumari Singh, APP
Kumari Rashmi, Advocate

(In CRIMINAL MISCELLANEOUS No. 40795 of 2016)

For the Petitioner/s : Mr. Dayanand Singh, Advocate
For the Opposite Party/s : Sri Umeshnand Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 04-05-2023



Heard learned counsel appearing for the respective parties.

These applications have been filed for quashing of the order dated 01.06.2010 passed by learned Judicial Magistrate, 1st Class, Hajipur in Complaint Case No.3974 of 2009, by which the learned Magistrate has taken cognizance against the petitioners for the offence under Sections 424 and 504 of the Indian Penal Code.

The prosecution case in short is that the complainant had purchased a Tata Ace vehicle by making payment of Rs. 46,000/- in cash and Rs.2,16,000/- was financed by Tata Motors Finance Limited and the financed amount was to be paid in 22 installments of Rs.11,600/-. It is alleged that the accused persons forcibly took the possession of the vehicle after threatening the driver of the said vehicle. It is also alleged that when the complainant and the driver of the vehicle contacted the accused no.1, he handed over the seizure list and said that because of non-payment of due amount, his vehicle has been repossessed despite the fact that he made necessary payment to accused no.1 on 19.06.2009. Thereafter, the complainant contacted the accused persons, who illegally demanded Rs.15,000/- from the complainant but the complainant refused



to pay the said amount. It is also alleged that thereafter the complainant sent a legal notice but the accused persons did not respond the said legal notice and on the contrary, they sent a notice to the complainant.

Learned counsel for the petitioners submits that the petitioners are not the employees of the Tata Motors, which had advanced the loan to the complainant, but they are the Chief Executive Officer and General Manager of Ideal Dealers Private Limited, which is the authorized dealer of Tata Motors to sell the vehicles manufactured by the Tata Motors. He further submits that there is no specific allegation in the entire complaint against the company in which the petitioners are working i.e. Ideal Dealers Private Limited.

Learned counsel for the petitioners further submits that the grievance of the complainant is against the Branch Managers of Tata Motors Finance Limited and not against the dealer of the vehicle. He further submits that even if the entire allegation is assumed to be true, no offence can be made out against the petitioners.

Learned counsel for the State has opposed these applications.

I have heard learned counsel for the parties and



also perused the materials available on record including the Complaint petition. From perusal of the complaint petition, it appears that allegation of the complainant is against the Branch Managers of Tata Motors Finance Limited, which had advanced the loan to the complainant. It also appears from the record that the petitioners that the Chief Executive Officer and General Manager of Ideal Dealers Private Limited, which is authorized dealer of Tata Motors to sell the vehicles manufactured by the Tata Motors and they are not the employees of the Tata Motors. Even if the allegations are taken at their face value and accepted as true then also no case is made out against the petitioners. Therefore, it seems that this is a *mala fide* prosecution lodged against the petitioners in order to wreak vengeance.

In the case of *M/S Indian Oil Corporation vs. M/S NEPC India Ltd.* reported in *AIR 2006 SC 2780* the Hon'ble Supreme Court has held that any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged. Further, the Hon'ble Supreme Court in the case of *Charanjit Singh Chadha vs. Sudhir Mehta* reported in *AIR 2001 SC 3721* has been held that the hire-purchase agreement in law is an executory contract of sale and



confers no right in rem on hire until the conditions for transfer of property to him have been fulfilled. Therefore, the re-possession of goods as per the terms of the agreement may not amount to any criminal offence.

From the discussions made above, this Court is of the opinion that the present Complaint petition is fit to be quashed in view of law laid down by the Hon’ble Apex Court in the case of *State of Haryana & Ors vs Ch. Bhajan Lal & Ors.* reported in *AIR 1992 604.*

Accordingly, these applications are allowed and the and the Complaint Case No.3974 of 2009 and all consequential proceedings arising out of the aforesaid Complaint Case including the order dated 01.06.2010 passed by learned Judicial Magistrate, 1st Class, Hajipur are quashed in the interest of justice.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	27.06.2023.
Transmission Date	27.06.2023.

