

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.707 of 2014

Arising Out of PS. Case No.-133 Year-2014 Thana- ARA NAWADA District- Bhojpur

1. Manoj Kumar Shahi and Ors Son of Sri Ram Kumar Shahi Resident of Plot No.-9 Pataliputra Colony, P.O. and P.S.-Patliputra Town and District-Patna present working as Circle Operation and Maintenance Head in M/s Viom Networks Ltd., Formerly known as Wireless TT-Info Services Ltd.
2. Bhavesh Kumar Khan Son of Late Parmanand Khan Residing at Plot No.-9 Patliputra Colony, P.O.andP.S.-Patliputra Town and District-Patna presently working as Circle Security Head, M/s Viom Networks Ltd. Formerly known as Wirelss TT-Info Services Ltd.
3. Sumit Prakash Son of Mr. Om Prakash Sinha Residing at Plot No.-9 Patliputra Colony, P.O.andP.S.-Patliputra Town and District-Patna presently working as Circle Legal Head, M/s Viom Networks Ltd. Formerly known as Wirelss TT-Infor Services Ltd.
4. Yash Pal Singh Son of Mr. Suraj Pal Singh Residing at Plot No.-9 Patliputra Colony, P.O.andP.S.-Patliputra Town and District-Patna presently worked as Circle Head till JUNE 2014, M/s Viom Networks Ltd., Formerly known as Wirelss TT-Info Services Ltd.
5. Sunil Kanoria Son of Dr. Hari Prasad Kanoria Residing at Viom Tower, Plot No.-14 A, Sector-18, Maruti Industrial Complex, Gurgaon-122015, presently working as Vice Chairman and Managing Director, M/s Viom Networks Ltd., Formerly known as Wireless TT-Info Services Ltd.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home and Anr
2. Amrendra Kumar Son of Bhagwan Coubey, Residing of Mohalla-Bihari Mil, Godran Road, P.O.-Anaith, P.S.-Ara Nawada, Ara, District-Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chittranjan Sinha, Sr. Adv. Mr. Rajesh Ranjan, Adv. Mr. Atul Shankar, Adv.
For the Respondent/s	:	Mr. Prabhat Kumar Singh SC-12

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 20-02-2023 Heard learned senior counsel Shri Chittranjan Sinha

assisted by Shri Rajesh Ranjan @ Rajesh Shukla for the

petitioners, the learned SC 12 for the State and the learned



senior counsel Shri Maya Shankar Singh assisted by Shri Aswani Kumar Tiwari for the respondent No. 02.

This application has been filed on behalf of the petitioners for quashing of the F.I.R. registered as Ara Nawada P.S. Case No. 133 of 2014 under Section 420 read with 34 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act.

The prosecution story in short is that mobile tower of Viom Network Ltd. (WTTIL) has been installed at the rooftop of the house of the informant. The informant alleged that the company was to pay Rs. 8000/- per month by way of rent. However, a cheque of Rs. 4950/- of HDFC bank was handed over by the staff of the company. The cheque when presented for encashment on 22.02.2014, was dishonoured as the account was blocked. The return memo of the bank showed that the account of the company was blocked. The informant alleged that the officials of the company had promised to pay Rs. 8000/- per month by way of rent but the accused persons including the petitioners gave a wrong cheque to misappropriate his money.

Learned counsel for the petitioner has submitted that no criminal case is made-out from reading of the entire F.I.R. and the dispute relates to the rent of the tower on the terrace of



the informant. It is further contended by the petitioner that the petitioners are the officials of the M/s. Viom Network Ltd. (WTTIL) and they should not be held vicariously liable for any act which may be treated to be a criminal act. They have also taken a plea that the present quashing application is fit to be allowed on the ground that the company has not been made accused in the present case.

Learned counsel for the opposite party, from reading the FIR submits that the offences are made and the charge-sheet have been submitted therefore, this application is fit to dismissed.

At this stage, on the argument of the learned counsel for the Respondent No. 02 that the stage has changed therefore this writ application is not maintainable, the learned counsel for the petitioners rely upon the judgment of the Supreme Court in the Case of *Anand Kumar Mohatta Vs. State (Government of N.C.T. of Delhi)* 2019 11 SCC 706. The Hon'ble Supreme Court has held that if the foundation falls, the superstructure will also fall.

This Court has considered the submissions of both the parties. From reading of the FIR, it appears that it is a clear case of malicious prosecution and the dispute is between the



company i.e. M/s. Viom Network Ltd. (WTTIL) and Respondent No. 02. The petitioners who are none other but the employees of M/s. Viom Network Ltd. (WTTIL) and the allegations levelled do not make-out a criminal case.

Considering the above, this application is allowed.

Accordingly the F.I.R. registered as Ara Nawada P.S. Case No. 133 of 2014 under Section 420 read with 34 of the Indian Penal Code and Section 138 of the Negotiable Instruments Act, is hereby quashed.

(Sandeep Kumar, J)

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