

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13353 of 2018

Arising Out of PS. Case No.-1430 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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1. P. Surya Narayan Raju and Anr S/o P. Rama Raju,
 2. P.V.N. Raju @ P.V. Narasa Raju, S/o P. Venkat Raju, Both are resident of Plot No.574, HMT Hills, Opp. K. PHB Colony, Kukatpally, P.S.District-Hyderabad- 500072.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Vikas Kumar Mandilwar, S/o Vishwanath Prasad, M/s V.C. Enterprises, Postal Park, Road No.-3, P.s.- Jakkanpur, District- Patna-14.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar, Adv.
For the Opposite Party/s : Mr.Bharat Bhushan, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 19-01-2023 Heard learned counsel for the petitioners and the State.

The petitioners moved before this Court for quashing of the order dated 18.5.2013 passed in Complaint Case No. 1430 (c) of 2022 by J.M. 1st Class, Patna under Sections 323, 406, 420, 379, 504/34 of the IPC by which cognizance was taken under Section 323, 406, 420, 379, 504/34 of the IPC and summons issued to the petitioners.

As per the prosecution story, the petitioners are Directors of the Company while the complainant was the Consignee Agent and in 2007, they entered into an agreement



and Rs. 5,50,000/- was paid by the complainant but they failed to operationalise the agreement. In between, the petitioner had accepted the liability of Rs. 15 lakh and had wrote promissory note dated 29.10.2010 to pay Rs. 13 lakh to complainant in 13 installments of Rs. 1 lakh each which was never paid. Later, a cheque of Rs. 50,000/- was given which was also dishonored. Thereafter, legal notice sent and the petitioners contacted the complainant and assured him for the payment but no payment was made. Accordingly, the FIR was lodged.

Learned counsel for the petitioner submits that even going by the complaint, no ingredients to proceed against the petitioner in such matter can be allowed as the same is purely civil in nature. In support of his submission, he cited a judgment reported in PLJR 2017(1), 615. He further submits that although the complaint was filed in 2014, as per Annexure 2, they continued in the business till 2018.

This Court has gone through the submissions as also the citation put forward by the learned counsel for the petitioner which in no way comes to its rescue. In the considered opinion of this Court, a perusal of complaint, it cannot be said that the same is of civil nature as the complainant has alleged that the petitioners accepted Rs. 5,50,000/- and signed an agreement



making him consigned agent but failed to abide by the terms and conditions and further in 2010, after assuring to return Rs. 13 lakhs chose to default. Even two years later, he provided a cheque of Rs. 50,000/- which once again bounced. Further, allegation is of storming the office along with other accused persons and thereafter abused and assaulted him.

Thus, this Court is of the view that prima facie a criminal case is made out in the matter and as such, the relief under Section 482 of the Cr.P.C cannot be granted in this case.

The petition lacks merit and is accordingly dismissed.

(Rajiv Roy, J)

Prakash Narayan
/Ajay Singh/-

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