

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 15837 of 2018

Arising Out of PS. Case No.-2040 Year-2015 Thana- COMPLAINT CASE District- Jamui

-
1. Alok Ratan S/o Ghanshyam Prasad Yadav,
 2. Ghanshyam Prasad Yadav S/o late Hemraj Yadav, Both R/o Village- Haweli Kharagpur, P.S.- Haweli Kharagpur, in the District- Munger.
- Petitioner/s
- Versus
1. State Of Bihar
 2. Amrendra Kumar S/o Sri Bhuneshwar Yadav, R/o Village- Deopur, P.S. -Khaira, in the District- Jamui.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad, Advocate Mr. Prabhu Narayan Sharma, Advocate
For the Opposite Party/s	:	Mr. Sri Rajendra Prasad Nat, APP Mr. Akash Raj, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 20-03-2023 Heard learned counsel for the petitioners and learned
APP for the State.

This application has been filed for quashing of order dated 29.06.2016 passed by learned Chief Judicial Magistrate, Jamui in Complaint Case No. 2040C of 2015 for the offences under Sections 406, 420 of the Indian Penal Code.

The prosecution case in short is that the complainant is a registered contractor and he was in need of electrical engineer. The accused petitioner Alok Ratan produced his educational certificate and on the basis of the said certificate, the complainant engaged him. It is alleged that both the petitioners had made a concocted story that mother of accused petitioner-Alok Ratan is suffering from uterus cancer, and they required money for her treatment at Velore or Mumbai and they



are demanded for which Rs. 7,00,000/- (Rupees Seven Lakhs Only) from the complainant. Accordingly, the complainant has given Rs. 2,00,000/- (Rupees Two Lakhs Only) to the accused. However, after some time the complainant came to know about mother of accused Alok Ratan is well and not suffering from said disease. The complainant is said to have found both accused being frauds. It has also alleged that when the complainant demanded his money, the accused persons insulted him by abusing as well as assaulting.

It has been contended by learned counsel for the petitioners that the complainant is the co-brother of the petitioner no. 1. He further submits that from reading of the complaint, it appears that no offence is made out against the petitioners. He also submits that if allegations taken to be true, it will make out a civil dispute between the parties at the most, and for which a money suit bearing Money Suit No. 02 of 2017 is pending in the court of Sub-Judge, 1st, Jamui between the parties which has been filed by the complainant.

Learned counsel for the opposite party no. 2 and the State submits that the petitioners have cheated the complainant and therefore, the complaint case was filed. They have also submitted that mere pendency of money suit bearing Money



Suit No. 02 of 2017 will not be a ground for quashing the complaint, which is as per them, discloses a criminal offence.

I have considered the rival submissions of the parties.

From reading the entire F.I.R, it appears that there is dispute of Rs. 7,00,000/- (Rupees Seven Lakhs Only) between the petitioners and the complainant. It is an admitted fact that for recovery of the same, the money suit bearing Money Suit No. 02 of 2017 is pending in the court below.

Considering the aforesaid facts and also considering the law laid down by the Hon'ble Supreme Court in a case of *State of Harayana Vs Bhajan Lal* reported in *1992 Supp (1) SCC 335*, this application is allowed.

The order dated 29.06.2016 passed by learned Chief Judicial Magistrate, Jamui in Complaint Case No. 2040C of 2015 is here by quashed.

(Sandeep Kumar, J)

Harsh/

U			
---	--	--	--

