

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12216 of 2017

Arising Out of PS. Case No.-1160 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

1. Rakesh Nandan Consumer Products (P) Ltd., Siliguri through Rakesh Nandan, Managing Director.

2. Rakesh Kumar Nandan, son of Sri Brij Nandan Prasad, Managing Director, M/s Rakesh Nandan Consumer Products (Pvt.) Ltd.

Both resident of Dharm Nandan Bhawan, Ram Thakur Mandir Road, New Milan Pally, P.O.- Siliguri Bazar, P.S. Siliguri, District- Darjelling, West Bengal.

3. Uday Pratap Singh @ U.P. Singh, son of late Mathura Prasad, National Sales Manager, M/s Rakesh Nandan Consumer Products (Pvt.) Ltd.

4. Jai Prakash Singh @ J.P. Singh, son of late Ram Bihari Singh, Area Sales Manager, M/s Rakesh Nandan Consumer Products (Pvt.) Ltd.

5. Maheshwar Narayan, Son of late Ram Nandan Prasad, Patna Head, M/s Rakesh Nandan Consumer Products (Pvt.) Ltd.

All at present Branch Office, 4th Floor, Gulmohar Apartment, P.S. Gnadhi, District-Patna.

6. Anjali Devi, wife of Swaraj Kumar,

7. Swaraj Kumar, son of Late Baldev Prasad,

Both at present resident of Near Industrial Area, Kurji Baluapar, P.S. Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar.

2. Birendra Bihar, son of Suresh Bihari Lal, resident of Bihari Handloom, Sadar Bazar, P.S.-Danapur, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Gaurav Govind

For the Opposite Party/s : Mr.Sri Sanjay Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 20-09-2023

Heard the parties.



2. The present petition has been filed for quashing of the order dated 04.03.2016 passed by learned Judicial Magistrate, 1st Class, Danapur in Complaint Case No. 1160(C) / 14 by which cognizance under Section 138 of Negotiable Instruments Act has been taken against all the petitioners and summons have been directed to issue against them.

3. As per prosecution case, complainant filed a complaint case stating that petitioner nos. 2 to 7 reached him at his shop and offered him to be distributor of their firm which deals in production and sale of Ghee, Tea and Agarbatti. He further submits that on the instruction of accused persons, he submitted an application at Patna Branch Office to the A.S.M. of firm accused no. 4 to appoint him distributor for the area of Danapur, Khagaul and Ashiana More, Patna. The complainant started business with the accused persons since 18.04.2010 and the complainant was regularly and timely paying the amount of the bill/invoice of the goods delivered by the accused persons. After sometime accused persons started sending false invoice bills to the complainant for the goods which were neither ordered by the complainant nor supplied to him. Later complainant asked them to furnish full account of transaction between him and the firm but the accused persons even avoided



to give any bill. After sometime, it is apparent that accused person grabbed Rs. 4,72,268/- of the complainant. When he demanded money accused persons have abused and assaulted him with fists and slaps. Finally, he lodged Complaint Case No. 1160(C) /14.

4. The materials available on record it has been argued by learned counsel for the petitioners that no offence under Section 138 is made out against the petitioners. This case is pending since 2016. The impugned order is cryptic and non-speaking order. I propose to remand back the case to the court below for fresh consideration on cognizance. I do not think it fit to issue notice to the complainant as it will further delay the matter. Since the impugned order is non-speaking order is quashed the same is remitted back to the Magistrate.

5. The Magistrate will consider the material available on record and after hearing the complainant he will pass a fresh order of cognizance. While taking cognizance the Magistrate will apply his mind, see whether offence under other sections of Indian Penal Code are made out and whether the offence under Section 138 of Negotiable Instruments Act is made out.

6. In view thereof, this application is allowed.

7. The order dated 04.03.2016 passed by learned



Judicial Magistrate, 1st Class, Danapur in Complaint Case No.
1160(C) /14 against the petitioners are hereby quashed.

(Sandeep Kumar, J)

Ranjeet/-

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