

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3377 of 2020

Arising Out of PS. Case No.-114 Year-2019 Thana- SIWAN MUFFASIL District- Siwan

SILAJIT BISWAS Son of Late Sudhindra Kumar Biswas R/O - Flat No. -E,
3RD Floor, Jagadhatri Apartment, Garpara (N) STN. RD., P.O.- Agarpara,
P.S.- Khardaha, District- 24 Parganas (North), Kolkata-700109

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Smt. Anjana Wife of Shudhanshu Shekhar Proprietor of Ridhi Sidhi,
V.M.H.E. School, New Gate, P.S.- Siwan Mufasil (Mahadeva), District-
Siwan

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratnakar Pandey
For the Opposite Party/s : Mr.Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 20-04-2023 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

This is an application filed for quashing the entire
prosecution of Siwan Mufasil (Mahadeva) P.S. Case No.-
114/19 under section 467/468/471/506/384 of the Indian Penal
Code.

The prosecution story in brief is that Complainant is
Proprietor of ASP and that the ASP is working as vendor of Flex
and Xiomi Technology India Private Limited (“Xiomi”). It is
further alleged that in the year 2018 Rajat Pandey, Field Service
Manager of Xiaomi came to the service center and illegally
demanded some money. On refusal, he audited the center on



15.09.2018 and prepared false audit report, imposing a penalty of Rs. 2,68,989/-. It is also alleged that a termination letter was also forwarded to the complainant's firm on 26.09.2018. It is further alleged that Rajat Pandey, Binay Singh and Silajit Biswas acted in conspiracy and using false audit report, terminated the agency of complainant.

It has been submitted by the learned counsel for the petitioner that he is qualified engineer (Diploma) and has working as Flex for the last 2.5 years and from reading of the entire F.I.R., there is no allegation against him. He further submits that the present prosecution has been filed because the licence of the service centre of the informant was cancelled by the company on 20 September 2018 for which the termination letter issued by the companies to the opposite party no. 2. He also submits that there is an arbitration clause in the Authorized Service Partner Agreement between the informant and Felxtronic Company (India) Pvt. Ltd. and for further redressal of his grievances, the petitioner should have gone in an arbitration but instead of going to arbitration, he has pressurized the company by lodging the false and fabricated case against the employees of the company. Infact, the entire thrust of allegation in the F.I.R. is on Rajat Pandey and in the end. The name of the



petitioner has been inserted subsequently, saying that he was conniving with Rajat Pandey in the illegal act.

The learned counsel for the petitioner further submitted that petitioner was the employee of the company and he has no role in the dispute with the company and the petitioner. He also submits that the company has not been made accused in the present case and no offence as alleged is made out against the petitioner from reading the entire F.I.R.

Learned counsel for the opposite party no. 2, Shri Mishra opposed the submission and submits that the accused persons have tried to extort money and they have created forged document including the audit report. He further submits that just because there is an agreement between the parties, it will not stop the informant from filing the F.I.R and civil and criminal proceedings can continue in particular dispute if criminal offence is made out from the F.I.R. He also submitted that investigation is going on and therefore, the F.I.R. should not be quashed.

After having heard, the learned counsel for the petitioner, learned counsel for the State and learned counsel for the informant. I find that there is no allegation against the petitioner and his name has been subsequently added after the



F.I.R. was finally typed and in view of the above, if no offence is made out against the petitioner, the continuation of the prosecution of the petitioner is the abuse of the process of the Court.

So far as the other arguments of the learned counsel for the petitioners are concerned, there is no need of considering those argument is this case, in view of the fact that this Court is convinced that there is no allegation levelled against the petitioner in the F.I.R. and the F.I.R. is fit to be quashed so far as the petitioner is concerned.

Considering the law laid down by the Hon'ble Supreme Court in the Case of *State of Haryana Vs. Bhajan Lal, 1992 (1) SCC 335*, this application is allowed as no offence is made out against the petitioner.

The F.I.R. of Siwan Mufasil (Mahadeva) P.S. Case No.- 114/19 is hereby quashed so far as the petitioner is concerned only. The prosecution of the other accused shall continue.

(Sandeep Kumar, J)

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