

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34438 of 2015

Arising Out of PS. Case No.-29460 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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Jyoti Goel S/o Sri Bajrang Lal Agrawal, Prop. M/s Savitri Sales, Near Kasera Iron, Agamkuan, Link Road, Mahatama Gandhi Setu, Gulzarbagh, P.S.- Agamkuan, Town and Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. M/s Life Long Meditech Limited, Regd. Office- Unit No. 508, DLF South Court, Saket, New Delhi- 110017 through its authorized representative Sri Ramabadran Sundararajan, S/o Seshdri Ramabadran, R/o H.No. 1405, Sector 10A, Gurgaon, Haryana- 122001.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Prakash Chandra Agrawal, Advocate
For the Opposite Party/s	:	Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 29-03-2024

1. Heard learned counsel appearing on behalf of the parties.

2. The present application has been filed for quashing the order dated 19.11.2014 passed by learned Judicial Magistrate, 1st Class, Patna, in Complaint Case No. 29460(C) of 2014, T.R. No. 1803/14, where cognizance was taken for the offences under section 138 of N.I. Act.



3. Prosecution case in brief is that opposite party no. 2 has filed a complaint against the petitioner on 01.11.2014 in the court of Chief Judicial Magistrate, Patna stating therein that petitioner approached the complainant at New Delhi Office to be appointed as a Consignee Agent for Patna Region. After detailed discussion and negotiation through a written agreement, his appointed was effected. Further, on account of goods supplied and liability towards Form F, the total liability was Rs. 54,77,170/- as on 22.06.2011. The accused issued a cheque bearing No. 777332 dated 22.06.2011 amounting Rs. 54,77,170/- drawn on S.B.I., G.M. Road, Branch, Patna, which was dishonoured by the bank vide return memo dated 24.06.2011 with remark "No Such Account". The complainant sent legal notice dated 18.07.2011 for demand of its money but accused did not pay the amount and sent a false and fabulous replied. Hence, the accused is liable to be punished accordingly.



4. It is submitted by learned counsel appearing for the petitioner that a recovery suit was filed before the Court of Delhi, where matter was taken to Mediation Centre, Saket Court, New Delhi, out of suit No. 9012 of 2016. It is submitted that the matter was compromised on 16.02.2019, where in para 1, it is mentioned that matter stands compromised for Rs. 18,00,000/- as full and final settlements, where the aforesaid amount to be paid in four installments of Rs. 4,50,000/-. It is submitted by learned counsel that in terms of settlement, Rs. 18,00,000/- was paid by opposite party no. 2, and, as such, nothing survives in this matter, therefore, the present proceeding is fit to be quashed.

5. Learned APP while opposing the application submitted that as per supplementary affidavit filed by petitioner, this case appears stands compromised in terms of Mediation's Report of Saket Court, New Delhi.

6. Opposite party no. 2 failed to appear despite of service of notice.



7. It is appropriate to re-produce the proceedings of Mediation Centre, Saket Court, New Delhi in Suit No. 9012 of 2016 as under:-

*"MEDIATION CENTRE, SAKET COURTS,
NEW DELHI*

Suit No. 9012/2016

*Lifelong Meditech Limited Versus Savitri Sales
16.2.2019*

*Present:- Shri Dhir Singh Bhati, AR of
plaintiff with Shri Rajesh Chugh, Advocate.*

*Shri Jyoti Goel, proprietor of
defendant with Shri Praveen Kumar,
Advocate.*

*The present matter has been
referred by the court of Ms. Vineeta Goyal,
learned Addl. District Judge-03 (South
District) Saket Courts. New Delhi*

*Whereas the first party Lifelong
Meditech Limited had filed the present suit
against the second party Savitri Sales
through its proprietor Shri Jyoti Goel for the
recovery of an amount of Rs. 54,77,169/-
along with future and pendente lite interest.*

*Whereas it is stated that besides
the present matter under reference, the first
party has also initiated one criminal
complaints under Section 138 of NI Act*



against the second party bearing CC No. 29460/2014, which matter is stated to be presently pending for 29.3.2019 before JMIC, CJM Division, Patna Sadar.

Whereas during the pendency of above-mentioned litigation between the parties, since the parties have reflected their intentions to settle their all the disputes through mediation, the present matter is referred to the mediation where the parties have been explained the process of mediation. Single and joint sessions held.

After due discussions, both parties have agreed to settle their disputes in full and final on the following terms and conditions:

1. The second party through its proprietor Shri Jyoti Goel has agreed to pay full and final settlement amount of Rs. 18,00,000/- (Rupees eighteen lakhs only) to the first party in connection with the present matter under reference as well as towards full and final settlement of criminal complaint under Section 138 of NI Act detailed above.

2. It is agreed that payment of the settled amount of Rs. 18,00,000/- will be made by the second party to the first party in total four (4) equal quarterly installments of 4,50,000/- (Rupees four lakhs fifty thousand only) each payable on or before 28th day of



English Calendar month, payable in the months of February 2019: May 2019: August 2019 and November 2019 by way of RTGS/NEFT in the account of the first party bearing No.000381300000667 maintained with Yes Bank, South Extension Part II, New Delhi (IFSC Code YESB0000016).

3. It is also agreed that the second party shall supply three duplicate Form "F" to the first party for the value of Rs. 25,94,741/- Rs.38,59,442/- and Rs.52,25,142/-. It is agreed that the legal formalities for obtaining the duplicate Form "F" shall be done at the cost of the first party and after completion of the above formalities at Patna, the copy of the same shall be supplied by the first party to the second party whereafter the second party shall approach the concerned authorities for release of duplicate Form "F".

4. It is also agreed that pursuant to the present settlement, the parties jointly will request the learned referral court to pass consent decree in terms of Mediation Conciliation Rules in the present matter under reference.

5. The benefit of Section 16 of Court Fee Act be given to the first party with respect to present matter bearing Suit No.



9012/2016.

6. It is also agreed between the parties that pursuant to the settlement reached between the parties, only on realization of entire settled amount, the first party will make necessary statement before the court of JMIC, Patna Sadar, for compounding/ withdrawal of the criminal complaint numbered above, filed by the first party against the second party. It is also agreed that the second party shall move necessary application before the court of JMIC Patna for cancellation of warrants which has been brought to the knowledge of second party today itself, which shall not be objected to by the first party.

7. It is also agreed that on realization of entire settled amount, the parties shall not be left with any other claim against each other of whatsoever nature and also shall not initiate any fresh litigation against each other with regard to subject matter of the present dispute.

This settlement has been voluntarily arrived at between the parties with their own free will and without any force, pressure or coercion and both the parties are bound by the terms and conditions mentioned herein above.



(Dhir Singh Bhati)

(Jyoti Goel)

AR of first party Proprietor of second party

(Rajesh Chugh)

(Praveen Kumar)

Counsel for first party

Counsel of second party

The contents of the settlement have been explained to the parties in vernacular (Hindi) and they have understood the same and have admitted the same to be correct.

Settlement proceedings be sent to the referral court. Parties to appear before the Court concerned for today itself (the date fixed), i.e.. 16.2.2019 at 4.00 PM for making necessary statements and for further directions.

Copy of settlement be given to both the parties.

(Vinay Kumar Khanna)

Judge Incharge: Mediation Centre

Saket Courts: 16.2.2019"

8. In terms of aforesaid settlement, petitioner deposited total of Rs. 18,00,000/-with the bank of opposite party no. 2 through RTGS dated 27.02.2019, 27.05.2019, 26.08.2019 and 26.11.2019 each for sum of Rs. 4,50,000/-. The details of all such payment is



part of Annexure-B, which filed on affidavit.

9. It would be apposite to re-produce para 102 of the ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.***, reported in ***1992 Supp (1) Supreme Court Cases 335***, which reads as under:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if



any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of nay offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to



spite him due to private and personal grudge.”

10. In view of aforesaid factual and legal submission, as matter has been compromised between the parties, where the entire amount in terms of settlement as discussed aforesaid was paid to opposite party no. 2, suggesting that nothing further survives in this matter and proceeding itself would only amount to abusing the process of law, accordingly, impugned order of cognizance dated 19.11.2014 passed by learned Judicial Magistrate, 1st Class, Patna, is hereby set aside and quashed *qua* petitioner with all its consequential proceedings.

11. Let copy of this judgment be sent to the trial court, without delay.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.2024
Transmission Date	01.04.2024

