

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.867 of 2021

Arising Out of PS. Case No.-443 Year-2020 Thana- KATIHAR NAGAR District- Katihar

1. RAKESH KUMAR S/o SRI RAMNATH SINGH R/o FLAT NO. 204, SHARAN COMPLEX APARTMENT, SADAQAT ASHRAM, P.S-DIGHA, DISTRICT-PATNA, PRESENTLY WORKING AS BRANCH SERVICE MANAGER, SAMSUNG INDIA ELECTRONICS PVT. LIMITED SITUATED AT 4TH FLOOR, VASUNDRA METRO MALL, EAST BORING CANAL ROAD, RAJAPUR, P.S-BUDHA COLONY, DISTRICT-PATNA.
2. RAVI SHANKAR CHAUDHARY S/o GOPAL CHAUDHARY R/o FLAT nO.107, RANHOLA, NEAR ROSE PUBLIC SCHOOL, NANGLOI, P.S-RANHOLA, DISTRICT-DELHI (WEST) PRESENTLY WORKING AS AREA MANAGER, SAMSUNG INDIA ELECTRONICS PVT. LIMITED SITUATED AT 4TH FLOOR, VASUNDRA METRO MALL, EAST BORING CANAL ROAD, RAJAPUR, P.S-BUDHA COLONY, DISTRICT-PATNA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH ADDITIONAL CHIEF SECRETARY CUM SECRETARY, HOME DEPTT. GOVT. OF BIHAR
2. THE SENIOR SUPERINTENDENT OF POLICE, KATIHAR.
3. THE OFFICER IN-CHARGE, TOWN P.S, KATIHAR.
4. SHEKHAR KUMAR S/o SRI SUNIL PRASAD R/o LARKANIA TOLA, P.S-TOWN, DISTRICT-KATIHAR WORKING AS PROPRIETOR OF M/s HARI OM ENTERPRISES, AUTHORISED SAMSUNG SERVICE CENTER, CHUNA GALI, NEAR UCO BUILDING, BINODPUR, P.S-TOWN, DISTRICT-KATIHAR.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Adv., Mrs. Kanika, Adv., Mr. Mohammad Farooq, Adv.
For the State	:	Mr. Sheo Shankar Prasad, SC-8, Ms. Ruchikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 07-03-2024



Heard learned Advocate for the petitioners as well as learned APP for the State.

2. The petitioners are the Branch Service Manager, Samsung India Electronics Private Limited, Patna and Area Manager, Samsung India Electronics Private Limited, Patna respectively.

3. One Shekhar Kumar used to run a Samsung service Center for repairing of mobile phones of Samsung brand at Katihar. The said service center was established on the basis of an agreement executed by and between Samsung India Electronics Private Limited and Hari Om Enterprises, of which the above named private respondent was the proprietor. It was clearly stipulated in the said agreement that the agreement of running service center may be terminated by either party by giving 30 days notice in writing to the other party without assigning any reasons whatsoever. Clause B of paragraph 14.1 further gave unfettered power to Samsung India Electronics Private Limited to terminate the agreement of any service provider if, it is found that the service provider has been performing detrimental to the interest of the Company. That on 20th August, 2020, a termination letter was issued by the Samsung India Electronics Private Limited, Gurugram, Haryana, addressed to the proprietorship concern of the



private respondent, informing him that his contract with Samsung India Electronics Private Limited would be terminated due to deficiency of service. Immediately thereafter, on 26th August, 2020, the petitioners filed the complaint, on the basis of which Katihar Town P.S. Case No. 443 of 2020, dated 26th August, 2020, under Sections 385/120(B)/34 of the I.P.C. was registered.

4. The petitioners are the local Officers of the Samsung India Electronics Private Limited at Patna. They do not have any business regarding termination of agreement of the private respondent with Samsung India Electronics Private Limited. But in order to put an illegal pressure, a complaint was lodged and Katihar Town P.S. Case No. 443 of 2020, dated 26th August, 2020, under Sections 385/120(B)/34 of the I.P.C. was registered.

5. It is submitted by the learned Advocate for the petitioners that when the agreement of service is terminated by Samsung India Electronics Private Limited, there cannot be any reason for demanding a sum of Rs. 8,00,000/- (Eight lakhs) from the complainant to run the said business. The essential ingredients of offence under Section 385 of the Cr.P.C. is that:-

(i) The accused puts the victim under fear or attempts to put under fear.



(ii) The said fear is that some injury is going to be caused to the opposite party no. 2.

(iii) Such fear of injury or attempt to put under fear is due to compelling the victim to deliver any property or valuable security to the accused persons.

6. The instant F.I.R. was filed after termination of the service providing agreement. Against termination of work, the petitioners moved before the appropriate Forum under the Arbitration and Conciliation Act. The arbitration proceeding was also dismissed. Therefore, being an employee of the Samsung India Electronics Private Limited, the petitioners had no authority to revise the agreement, which has been terminated by the Head Office on demand of a sum of Rs.8,00,000/-. This aspect was required to be considered by the Investigating Officer.

7. Therefore, the instant writ petition is disposed of directing the respondent no. 2 and respondent no. 3 to consider the observation made hereinabove by this Court to come to a finding as to whether under the proven facts delineated above, the investigation of the criminal case should continue or not.

8. The above named respondents are directed to take such decisions within two months from the communication of this order positively.



9. With the above direction, the instant writ petition is
disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

