

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25998 of 2017

Arising Out of PS. Case No.-3776 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Sri Tashi Wangdi @ Tansi Wangdi, son of Mr. Penjore, Technical "Advisor Lhaki Steels and Rolling Pvt. Ltd. 1st Floor, Royal Insurance Corporation of Bhutan, Post Box No. 252. P.S. Division III Royal Bhutan Police, District-Phuentsholing, Bhutan.
 2. Mr. Md. Idris alias Md. Idrish, son of Lal Mohammad, Executive Pvt. Secretary Lhaki Steels and Rolling Pvt. Ltd. 1st Floor, Royal Insurance Corporation of Bhutan, Post Box No. 252. P.S. Division III Royal Bhutan Police District-Phuentsholing- Bhutan.
 3. Mr. Afzal A. Nadeem alias md. Nadim @ A. Nadeem Son of late A. Ahmad, General Manager Sales and Marketing Lhaki Steels and Rolling Pvt. Ltd. 1st Floor, Royal Insurance Corporation of Bhutan, Post Box No. 252. P.S. Division III Royal Bhutan Police, District- Phuentsholing- Bhutan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ajay Kumar Singh, son of Shubhash Singh Proprietor of Tirupati Traders, resident of Mohalla Ramdhanipur Kanauji Tola, Khemnichak ,P.S. Ram Krihsnha Nagar, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Mushtaque Alam
For the State	:	Mr. Manoj Kumar- A.P.P.
For the O.P. No.2	:	None

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 7 12-01-2024 1. Heard learned counsel for the petitioners and

learned APP for the State.
2. No one appears on behalf of the opposite party

no.2.
3. The case was taken up on 06.10.2023,

thereafter on 10.11.2023, thereafter on 01.12.2023,



thereafter on 15.12.2023, when no one had appeared on behalf of the opposite party no.2. However, when the Complaint Case was taken up on 16.10.2023, the learned counsel for the opposite party no.2 had appeared.

4. Today also, when the case is called out, no one appears on behalf of the opposite party no.2.

5. The Court cannot wait endlessly for appearance of the learned counsel representing the opposite party no.2.

6. The learned counsel for the petitioners, at the outset, seeks permission to withdraw the present quashing application with respect to petitioner no.1, who during the pendency of the quashing application left for his heavenly abode.

7. Permission is accorded.

8. The learned counsel for the rest petitioners submits that the present quashing application has been filed seeking quashing of the order dated 06.02.2017 passed by the learned Sub-Judge-XIII-cum-A.C.J.M., Patna in Complaint Case No.3776(C) of 2016, whereby cognizance of offence under Sections 406, 323 and 417 of the I.P.C. has



been taken.

9. The learned counsel for the petitioners submits that the opposite party no.2 falsely implicated the petitioners, who are employees of Bhutan Rolling Mill. It is next submitted that the opposite party no.2 is proprietor of Tirupati Traders, Beur More, Patna and he was appointed as a Distributor for marketing the "Perfect TMX TMT" Brand of Construction reinforcement Steel being produced by the company for the market in the State of Bihar. It is further submitted that the opposite party no.2 was appointed in May, 2014 and the business was conducted on a cash, credit arrangement initially. It is further submitted that over sometime, the opposite party no.2 started defaulting in making payment and the default led to accumulation of an arrear of Rs.3,68,52,081/- on account of which, the company which is situated in Bhutan started facing severe cash crunch. It is further submitted that despite best endeavours of the company to retrieve the arrear amount from the opposite party no.2, the company could not succeed, as such, the company, by its letter dated



21.11.2016 addressed to the Hon'ble the Chief Minister, Government of Bihar brought to his notice that how opposite party no.2 is dealing with the company and sought his help.

10. The learned counsel for the petitioners next submits that since a complaint was made to Hon'ble the Chief Minister, Government of Bihar, as such, his office directed the Station House Officer, Gardanibagh Police Station to enquire into the matter based on which the opposite party no.2 was called. It is next submitted that the opposite party no.2 by his letter dated 30.11.2016 addressed to the S.H.O., Gardanibagh Police Station assured that the payment would be made in instalment as would be evident from Annexure-4 to the quashing application.

11. The learned counsel for the petitioners next submits that on one hand, the opposite party no.2 accepted that he owes amount to the company which would be paid in instalment and for which he had sought sometime, but after assuring the company and the S.H.O., Gardanibagh P. S., the opposite party no.2 instituted the present complaint case with frivolous allegation that he had business



relations with the company in lieu whereof, he had deposited certain amounts as detailed in the complaint for procuring iron, but then, the same was never supplied and the accused persons including the petitioners had come to Patna and when the petitioners met them at Bus Stand, he was assaulted.

12. The learned counsel for the petitioners thus submits that from perusal of the allegation as alleged in the Complaint when appreciated in the background of the controversy as recorded herein above, it would manifest that the complaint was frivolous. It is also submitted that the petitioners are employees of the company and in order to coerce the company and its employees into submission, the present false case came to be instituted and this perhaps explains, why the learned counsel appearing on behalf of the opposite party no.2 is not appearing and contesting the case on behalf of the opposite party no.2. It is also submitted that in the nature of allegation as alleged in the complaint, prima facie no offence is made out under Sections 406 and 417 of the I.P.C. and the allegation under Section 323 of



the I.P.C. is ornamental.

13. The learned Additional P. P. is also not in a position to rebut the submission the learned counsel for the petitioners.

14. Considering the submission made by the learned counsel for the petitioners, the order dated 06.02.2017 passed by the learned Sub-Judge-XIII-cum-A.C.J.M., Patna in Complaint Case No.3776(C) of 2016, whereby cognizance of offence under Sections 406 and 417 of the I.P.C. has been taken, is hereby quashed.

(Satyavrat Verma, J)

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