

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1374 of 2024

Arising Out of PS. Case No.-85 Year-2017 Thana- MANJHI District- Saran

1. Ashok Kumar Son Of Sri Anirudh Prasad Sharma Resident Of Muhalla - 168, C.D.A. Colony, P.O. And P.S. - LBS Nagar, District - Patna, Pin No. 800023
2. Shailendra Kumar Son Of Late Hari Shankar Prasad Resident Of Apartment Namely Dukhan Ram Plaza, Flat No.404, P.S. - Gandhi Maidan, District - Patna, Pin No. 800001
3. Maganti Venkateshwarlu Son Of Late Maganti Seetharamaiah Resident Of 25/1/1347 7th Street, Anuradha Apartment, Flat No.2A, Near Water Tank, Netagi Nagar, Podalakur - Nellore Road, P.O. And P.S. - Andhrakesari Nagar, District - Nellore, Andhara Pradesh - 524004. At Present Resides At Village - Daulatpur, New Bypass Road, N.H.-30, P.S. - Fatuha, District - Patna, Pin No. 803201

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr.Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 31-01-2024 Heard Mr. Anil Kumar Singh, learned counsel appearing on behalf of the petitioners and Mr. Ajit Kumar, learned APP for the State.

2. Petitioners seek pre-arrest bail in connection with Manjhi P.S.Case No.85 of 2017, registered for the offences punishable under Sections 420 and 406 of the Indian Penal Code.

3. As per the allegation made in the FIR, the petitioners being authorized government contractor were



allotted the work of construction of Road from Manjhi to Badauli in the district of Saran at Chapra relating to S.H. 96 project. The materials were supplied by the informant for construction of the road and when a sum of Rs.7,64,459/- was not paid by the petitioners to the informant, even after the repeated requests, the informant was forced to serve a legal notice to the accused persons including the petitioners. They have not paid the dues till date.

4. Mr. Suraj Samdarshi along with Mr. Anil Kumar Singh, learned counsels appearing on behalf of the petitioners submitted that from the complaint, it appears that in course of the business transaction, the informant supplied bricks and sand to the petitioners, who are Senior Office bearer of BSC C&C joint venture registered under the Indian Companies Act, 2013. The companies accounts are duly certified by the Chartered Accountant and the detail of the accounts shows that the bills submitted by the informant have already been credited into the account of the informant, which relates to supply of materials to the petitioners' company.

5. Learned counsel further submitted that the petitioners being office bearer of registered company undertakes to resolve the dispute by clearing the accounts in an amicable



manner within a period of three weeks as has been informed by the petitioners.

6. Learned APP for the State has submitted that there is ingredient of breach of trust and forgery committed by the petitioners. Admittedly, the petitioners and the complainant were in business terms .

7. Having considered the rival submissions made on behalf of the parties and the allegation made in the complaint, which has been converted into FIR, the petitioners have agreed to settle the dispute in an amicable manner, this Court finds it proper to direct the informant to produce all the bills and the accounts to ascertain the total quantity of bricks supplied in the Financial Years, 2013-14, 2014-15, 2015-16 and 2016-17 duly certified by the Chartered Accountant.

8. The petitioners being senior officer of the company, namely, BSC C&C Joint Venture Ltd. are directed to proceed to resolve the dispute amicably within a period of six weeks, as agreed by them.

9. The Apex Court in the case of **Sharad Kumar Sanghi Vs. Sangita Rane** *reported in (2015) 12 SCC 781*, at **Paragraph No.9** has held that for instituting FIR or complaint for breach of trust and forgery against the office bearer of the



company, it is mandatory to make the company as an accused.

10. The petitioners being senior office bearers of the Company are directed to be released on on pre-arrest bail, in the event of his arrest or surrender before the learned court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned J.M. Ist Class, Saran at Chapra in connection with Manjhi P.S.Case No.85 of 2017 subject to conditions as laid down under Section 438(2) of the Cr.P.C. with further condition that they will produce a copy of the settlement of accounts within a period of four weeks, otherwise this order will lose its force. In case the complainant/informant deliberately does not participate and tender his appearance before the court below within a period of one week from the date of passing of this order and file an affidavit giving undertaking that he will sit along with the petitioners/company, the petitioners will try to resolve the dispute amicably.

11. The court below is directed to verify the criminal antecedent of the petitioners and if it is found that the petitioners are involved in some other cases as what has been stated in paragraph No.3 of the bail application, this order will



automatically lose its force.

(Purnendu Singh, J)

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