

(2006) 09 PAT CK 0015

In the Patna High Court

Case No : Criminal Miscellaneous No. 14177 of 2006

Amrit Sagar Mittal and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 20-09-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 406, 420

Citation : (2007) 1 PLJR 343

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navaniti Pd. Singh, J.—Heard the parties. The complainant is represented. A complaint was filed inter alia that the complainant acting on power of attorney of his wife had applied for dealership of Sonalika International Tractor Ltd. which has its Head Office at Sonalika House Karkardoma, Delhi. For the said dealership he had deposited rupees three lacs. He was given two tractors to be sold. Thereafter, tractor was supplied to another person and the dealership was cancelled. The security deposit was forfeited. It is, thus, alleged that the complainant had been cheated. The complaint having been filed the matter was referred to the police for investigation. After investigation the police filed final report but the Court after examining the witnesses found that no case was made out and refused to take cognizance. The complainant then went in revision before Sessions Judge who elaborately discussed various aspects of the investigation and held that the order of the learned Magistrate in refusing to take cognizance was bad. It was, accordingly, set aside. The petitioners then challenged this order of the learned Sessions Judge before this Court in Cr. Revision No. 868/05 which was permitted to be withdrawn on 5.7.2006 clearly noticing that pursuant to the order of the Sessions Judge the Chief Judicial Magistrate had taken cognizance which order could be challenged independently. In this application on behalf of the accused persons challenge has been made to

the order taking cognizance dated 16.1.2006.

2. It is submitted on behalf of the petitioner that even if the first facts stated in complaint are taken on its face value no criminal offence is disclosed. The dispute as disclosed is purely of civil nature. It is submitted that the complainant has only a civil dispute to raise with regard to cancellation of his dealership. So far as security is concerned, it is stated that by Bank Draft the same has been duly refunded to the complainant Firm.

3. On other hand, the complainant submits that the accused persons acted in a most arbitrary and whimsical manner in cancelling the dealership and as such, had committed offence under Sections 406 and 420 I.P.C. in conspiracy with each other.

4. I have perused the complaint. The only grievance of the petitioner is about cancellation of dealership and apparently the appointment of another person as dealer. The grievance if any, is purely of a civil nature. The Supreme Court has recently held that crafty drafting of a civil dispute may give colour of a criminal dispute but that does not make a dispute amenable to Criminal Court. Such disputes are not to be encouraged. In the present case the dispute is purely a civil dispute and that being so, is clearly an abuse of the process of the Court. I, accordingly, allow this application and set aside the entire criminal prosecution of the petitioner as well as order taking cognizance.