

(2006) 09 AHC CK 0101

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 2119 of 2001

Arvind Kumar Jaiswal

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 26-09-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 420

Citation : (2007) 1 ACR 927

Hon'ble Judges : Barkat Ali Zaidi, J

Bench : Single Bench

Advocate : Anoop Trivedi, for the Appellant; D.P.S. Chauhan, B.P. Mishra and A.G.A., for the Respondent

Judgement

Barkat Ali Zaidi, J.—This is an application u/s 482, Cr. P.C. and the prayer is that the proceedings in the complaint in which the process has been issued against the applicant and others, be quashed.

2. Opposite party No. 2 complainant Ram Kumar Verma, complainant filed a complaint against the applicant and two others before the Court of Chief Judicial Magistrate, Farrukhabad, alleging that the accused-applicant is the Manager of a firm known as M/s. Farma Associate and Distributor of M/s. Penjon Ltd., Dava Bazar, Indore.

3. The allegations are that the complainant-opposite party No. 2 ordered to accused No. 2 Surendra Kumar Gupta, Regional Manager to supply products of the Company and sent drafts below on the following dates, to him, of the following amount but the accused all the times supplied goods in less quantity than the amount of drafts sent.

Sl. No. Draft No. Date Amount of draft Goods supplied

1. 422576 4.6.1998 Rs. 14,000 Rs. 13,952

2. 423012 10.7.1998 Rs. 14,000 Rs. 13,925
3. 423229 10.9.1998 Rs. 11,000 Not supplied
4. 122228 2.8.1998 Rs. 2,000 Not supplied
5. 122319 25.8.1998 Rs. 1,990 Not supplied

Pursuant to order with regard to the amount of last three drafts, after much persuasion, accused No. 3 in connivance of accused Nos. 1 and 2 with an intention to commit to cheat the complainant, sent sub standard goods and also, injurious for health and also did not adjust the residual outstanding sums of the remaining drafts shown above, against which, short supply was done. The complainant demanded Rs. 9,180 from the accused persons with regard to the above outstanding money but the accused persons refused to oblige.

4. On these facts, the learned Magistrate issued summons against the accused u/s 420, I.P.C., against which order, one of the accused-applicant has come to this Court by filing application u/s 482, Cr. P.C.

5. Heard Sri D. P. S. Chauhan, learned Counsel for the applicant and the learned A.G.A. for the State.

6. The counsel for the opposite party-complainant Sri B. P. Mishra, did not appear despite the fact, the case was taken up again in the revised list. It has, therefore, been decided to dispose of this case on merit and no application for re-hearing or restoration by the counsel for the opposite party-complainant shall now be entertained.

7. The narration of facts as given above, clearly reveals differences and dissensions during the course of commercial transactions. There is obviously and apparently no intention to cheat from the side of Respondents and this is manifestly a case of civil nature, which has been dragged into criminal arena with a view to exert pressure on Respondents for settling out the standing dispute.

8. The case should not, therefore, be allowed to proceed. The summoning order issued against the accused-applicant is quashed.

9. The petition is allowed.