
(2007) 07 PAT CK 0122
In the Patna High Court

Depone Organics Private Ltd. and Others APPELLANT
Vs
The State of Bihar and Another RESPONDENT

Date of Decision : 31-07-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 206, 406, 420

Citation : (2007) 07 PAT CK 0122

Hon'ble Judges : Subash Chandra Jha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Subash Chandra Jha, J.—Petitioner Depone Organics Private Limited through its Managing Director Jambu Kumar Jain J.K. Jain and its Managing Director Jambu Kumar Jain J.K. Jain have filed this petition for quashing the order dated 28.2000 passed by Sri Shahad Kausar, J.M. Ist Class, Patna, in T.R. No. 773/2000 arising out of Complaint case No. 953G/2000, whereby and who rounder the learned Magistrate has taken cognizance against the petitioners and thereby directed for issuance of process for appearance of the petitioners so as to put them on trial for the offences punishable under Sections 420, 206, 120B of Indian Penal Code.

2. Heard learned Counsel for the petitioners, O.P. No. 2 and learned Additional Public Prosecutor appearing on behalf of the State.

Brief facts of the case as made out in the complaint before the Chief Judicial Magistrate, Patna, giving rise to Complaint case No. 953C/2000 is that the complainant is a Science graduate and also holding a degree of M.B.A. who claims to have worked as Regional Field Manager in the company of the petitioners. He was induced by Petitioner Nos. 2 and 3 who are Managing Director and Divisional Sales Manager respectively of the company, to Join these post of Zonal Sales Manager and assured of continuing of such service for fifteen years. The complainant worked as Regional Field Manager to the satisfaction of the Company. But the accused-petitioners intentionally started harassing him and

did not pay his demand dues, although, such(sic) made from time to time and ultimately his service was terminated illegally on 7.5.2000. Of course, the complainant approached the petitioners but of no avail. As such for criminal breach of trust and dishonest cheating the complaint was filed and the learned Magistrate after holding enquiry passed the impugned order thereby putting the petitioners on trial.

3. Learned Counsel for the petitioners has submitted that, as a matter of fact, both the sides have come to terms and they have sorted out their difference outside the court and the complainant-O.P. No. 2 would not have any grievance, if the impugned order is quashed.

4. There is endorsement of the learned Counsel for O.P. No. 2 to the aforesaid submission advanced on behalf of the petitioners. In addition to that, learned Counsel for the petitioners has also submitted that in the given situation no cause of action for continuance of any prosecution for the grievance of the complainants O.P. No. 2 as alleged in the complaint petition, would attract any criminal prosecution of the petitioners u/s 406 or 420 of Indian Penal Code. Almost all the ingredients for considering such offence falling within the purview of Sections 406 and 420 of Indian Penal Code are lacking. The complainant, if any, has grievance in respect of termination of his service from the company of the petitioners, remedies are available and he should knock the appropriate authorities as provided under the law.

5. Definitely, in the circumstances, it could be that the complainant has chosen a wrong forum and the learned Magistrate in true sense of the term, without applying his judicial mind would be said to have passed the impugned order, which was unwarranted. Various forums have been created for governance of terms and condition of services in respect of government employees, private sector employees and other corporate employees, but not this criminal forum with which we are confronted.

6. In the facts and circumstances, I have no hesitation to hold that ingredients of Sections 406 or 420 of Indian Penal Code are not available here for continuance of the criminal proceeding in the court. The very continuance of the criminal proceeding against these petitioners would only amount to abuse of process of law and for the impugned order stands quashed.

In the result, this application is allowed.