

(2008) 09 PAT CK 0145

In the Patna High Court

Case No : Criminal Miscellaneous No. 12699 of 2007

Dr. G.S.K. Velu

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 08-09-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482
Penal Code, 1860 (IPC) — Section 120B, 409, 420

Citation : (2009) 2 PLJR 126

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Abhijit Sinha, J.—Heard Shri Jitendra Singh, Senior Advocate, the learned counsel for the petitioner, Shri Shashi Bhushan Jaiswal, the learned counsel for O.P. No. 2 and Shri Jharkhandi Upadhyay, the learned A.P.P. for the State. This application u/s 482 Cr.P.C. has been filed for the quashing of the F.I.R. of K. Hat P.S. Case No. 243 of 2006 registered under Sections 409, 420 and 120B I.P.C.

2. Counter affidavit has also been filed on behalf of O.P. No. 2.

3. The petitioner who was the Managing Director of M/s Trivitrn Medical System Pvt. Ltd. alongwith others was made to figure as accused in K. Hat P.S. Case No. 243 of 2006 registered under Sections 409, 420 and 120B I.P.C. when the Complaint Case bearing No. 147 of 2006 filed by the complainant who has been impleaded as O.P. No. 2 herein, was sent to the concerned police station u/s 156(3) Cr.P.C.

4. Briefly stated, the prosecution case is that the informant is a Doctor in Purnia running his clinic in the name and design of Ultra Sound Diagnostic Center at Line Bazar and as he was desirous of purchasing a Colour Doppler Machine, the Regional Manager (East) of the accused Company, M/s. Trivitrn Medical System Private Limited met the complainant on 11.4.2005 and persuaded him to

purchase the Aloka S.S.D.-4000 Plus Colour Doppler Machine manufactured by Aloka Company Limited, Tokyo, Japan, the total price whereof as per the quotation was Rs. 17,35,000/-. The complainant was also requested to purchase two other machines worth Rs. 1,40,000/-. It is said that pursuant to the discussions the complainant agreed to purchase the machines and paid a sum of Rs. 3,00,000/- as advance and it was decided between the parties that the machine would be installed at the clinic of the informant within two weeks of receipt of the dispatch order and that the complainant would be adequately instructed to operate the machine and the seller company would take the responsibility of maintenance of the machine. It is said that the informant paid a total sum of Rs. 18,50,362/- to the company on various dates. After the machines were installed in the clinic various defects cropped up as a reason whereof they became non-functional and instead of footswitch manufactured by the Japanese Company a locally manufactured footswitch was found fitted in the machine. The complainant is said to have raised objections with regard to the same and a sum of Rs. 20,000/- was permitted to be deducted by the representative of the company on account of the differences of cost of the original and the locally procured one. Other defects kept occurring and eventually after much persuasion accused No. 5 directed the complainant to pay Rs. 24,646/- while accused No. 6 had been demanding interest on the aforesaid amount. Thereafter the accused persons assured the complainant of selling him an original Colour Doppler Machine which meant that the accused had supplied a bad machine fitted with inferior quality of materials.

5. During the pendency of the trial the complainant appears to have become satisfied with the services rendered by the accused persons and the defective parts having been changed with originals. However, prior thereto the informant for the recovery of his entire money and redressal of his grievance had petitioned the District Consumer Forum, Purnia. Since the grievance of the informant had been pacified and nothing remained to be complained off a compromise petition at the behest of the company was filed by the informant which was allowed by order dated 23.8.2006 and the Consumer Forum recorded the compromise. The complainant now does not harbor any grievance against the accused persons and the alleged company and a compromise petition was also filed before the learned Chief Judicial Magistrate, Purnia on 14.7.2006.

6. When the parties have settled amicably their disputes and differences, there is no point in entering into an academic discussion in respect of whether the offences alleged had been committed or not and as such I refrain from doing so.

7. It is available in the counter affidavit filed by O.P. No. 2 that he had already compromised the matter and did not want to pursue the criminal case since the accused persons have satisfied him with their services and has prayed for quashing of the criminal case so as to bring good relationship between the company and the informant. Since the parties have already amicably settled their disputes and differences, there is no point in proceeding further with the

proceedings. Accordingly, the entire criminal proceeding arising out of K. Hat P.S. Case No. 243 of 2006 is hereby quashed so far as these two petitioners are concerned and the application is allowed.