

(2013) 01 JH CK 0073
In the Jharkhand High Court
Case No : Cr.M.P. No. 1002 of 2009

P. Easwaran and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Income Tax Act, 1922 — Section 66(2)
Penal Code, 1860 (IPC) — Section 34, 420

Citation : (2013) 2 AJR 790

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Advocate : N.K. Pasari, for the Appellant;

Final Decision : Allowed

Judgement

Rakesh Ranjan Prasad, J.—Service report has been received wherein it has been reported that O.P. No. 2 has refused to accept notice. In such situation, notice is accepted to have been validly served upon O.P. No. 2.

2. Heard the learned counsel appearing for. the petitioners on the merit of the case.

3. This application has been filed for quashing of the entire criminal proceeding of complaint case No. C/1-228 of 2003, including the order dated 08/04/2005, whereby and where-under cognizance of the offence punishable under Sections 406 and 420/34 of the Indian Penal Code has been taken against these petitioners, who happened to be the Managing Director, Technical Director, Director and Assistant General Manager of M/s. Shivsu Watek Pvt. Ltd., Chennai.

4. The entire criminal case including the order dated 08/04/2005, taking cognizance, is being sought to be quashed on the ground that the complainant has entered into a compromise and, thereby, he does not intend to proceed with the case and, as such, he filed an application for withdrawal before the Court below but when no order was passed, the petitioners have approached this Court.

5. The case of the complainant, which appears from the complaint petition, is that the complainant-company having been given franchisee of M/s. Mc Dowell and Co. Limited, wanted to set up a plant for production of Mineral Water and Soda. For setting up the plant, the complainant approached to the petitioners, who are the officials of M/s. Shivsu Watek Pvt. Limited, Chennai, who conveyed the complainant-company that they will be setting up the plant/supply the machineries for the company. On promising this, the petitioners took a sum of Rs. 6,50,000/- from the complainant-company. Meanwhile, the complainant-company when came to know that the machinery, supplied by the petitioner's company to one M/s. Classic Watek, is of inferior quality, asked the petitioner's company not to proceed with supply of machinery rather to refund the money but the petitioners refused to return the money and, thereby, it has been alleged that the petitioners committed offence of cheating and criminal breach of trust. On such allegation, a complaint was lodged which was registered as Complaint Case No. C/1-228 of 2003, in which cognizance of the offence was taken under Sections 406 and 420/34 of the Indian Penal Code vide order dated 08/04/2005, which is under challenged.

6. Mr. Pasari, learned counsel appearing for the petitioners submits that whatever dispute was there in between the petitioners and the complainant-company, that has been resolved and, hence, a petition was filed before the Court below on behalf of the complainant for withdrawal of the complaint but no order was passed by the Court below and, hence, the petitioners have moved this Court for quashing of the entire criminal proceeding including the order taking cognizance as the dispute, which was there in between the parties, was personal in nature never involving any public policy.

7. Since, no one appeared on behalf of the complainant, the stand of the complainant could not be known. However, from perusal of the withdrawal application, it appears that the complainant had filed an application for withdrawal, wherein the prayer had been made to drop the proceeding which itself indicates that the parties had settled their dispute amicably, which was personal in nature never involving any public policy.

8. In that view of the matter, entire criminal proceeding of Complaint Case No. C/1-228 of 2003, including the order dated 08/04/2005, taking cognizance, is hereby quashed. In the result, this application stands allowed.