

(2016) 02 PAT CK 0025

In the Patna High Court

Case No : Criminal Miscellaneous No. 35366 of 2015 (Arising Out of PS Case No. 1250 of 2015)

Reliance @ Reliance Infocom Engineering Private Ltd. and
other

APPELLANT

Vs

The State of Bihar and other

RESPONDENT

Date of Decision : 08-02-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482

Penal Code, 1860 (IPC) — Section 120B, 406, 409, 420, 468

Citation : (2016) 2 ECrc 158

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Rana Vikram Singh, Advocate, for the Appellant; Iftekkar Mahmood, APP, for the Respondent

Final Decision : Dismissed

Judgement

Ashwani Kumar Singh, J. (Oral) - By the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), the petitioners seek quashing of the order dated 20.04.2015, passed by the learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1250 (C) of 2015, whereby and where under the learned Magistrate finding a prima facie case under Sections 406, 420, 409, 468 and 120-B of the Indian Penal Code issued process summoning the petitioner and others to face trial.

2. Complaint Case No. 1250 (C) of 2015 was filed on 25.03.2015 by the opposite party no. 2 (for the sake of clarity "the complainant"), namely, Anup Kumar Sinha, the owner of the M/s. Maatrika Enterprises.

3. It has been stated in the complaint that the complainant is a contractor and supplier of electrical goods. In the year 2010-11, petitioner no. 2 Indrajit Mukhopadhyaya @ Indrajeet Mukhopadhyaya, the Commercial Head, Reliance Infocom Engineering Private Ltd, Ranchi (For Short "Company") visited his office

and persuaded him to work with his company. Thereafter, on being persuaded by the petitioners, the complainant started executing work of the company as per work order. It has been alleged in the complaint that after completion of work, the complainant used to submit bill for payment which in course of time swelled to Rs. 62.57 lakh, but the petitioners did not make payment on one pretext or another. Though a legal notice was also sent to them, it did not evoke any positive response. The complainant has alleged that the accused induced him to work at different places for the Company and after the completion of the work deliberately cheated him by refusing to make the due payment.

4. After examination of the complainant on oath under Section 200 Cr.P.C., some witnesses were also examined during inquiry conducted under Section 202 Cr.P.C. and on completion of the inquiry, the learned Magistrate summoned the petitioners under Section 204 Cr.P.C. vide order dated 20.04.2015. Being aggrieved by the aforesaid order dated 20.04.2015, the petitioners have preferred the present application.

5. It has been contended by the learned counsel for the petitioners that the petitioner no. 1 is a Company duly incorporated under the Indian Companies Act, 1956 having its registered office at Mumbai and the petitioner no. 2 is associated with it since October, 2012 as its Commercial Head at Ranchi and is looking after the commercial interest of the company at Jharkhand and Bihar. It has further been contended that the dispute, in question, is purely civil in nature and during the pendency of the application, both the parties have amicably settled their disputes and all the outstanding dues of the complainant was settled at Rs. 40 lakh out of which Rs. 19,68,174/- has already been paid to the complainant on 21.05.2015 and the same has duly been received by him as would be evident from the memorandum of settlement dated 21.05.2015 and its acknowledge receipt granted therewith as contained in Annexures- 3 and 4 of the application. The remaining amount of Rs. 20,31,826/- has also been prepared in the name of the complainant firm details of which are as under:

"(i) D.D. of Rs. 19,98,870,76/- of H.D.F.C. Bank vide D.D. No. 210655 dated 18.01.2016.

(ii) DD of Rs. 32,955/- of H.D.F.C. Bank vide D.D. No. 210656 dated 18.01.2016."

6. It has been further contended that said two demand drafts have already been handed over to the learned counsel for the complainant, who has duly received the same.

7. Sri Jainendra Kumar Puskar, learned counsel for opposite party no. 2 does not dispute the contention advanced by the learned counsel for the petitioners. He concedes that now there is no surviving grievance of the complainant against the petitioners of the present case. He has submitted that in view of redressal of grievance of the complainant, now the complainant and his firm do not want to pursue Complaint Case No. 1250 (C) of 2015 pending in the Court of learned Chief Judicial Magistrate, 1st Class, Patna.

8. I have heard respective counsel for the parties and perused the materials available on record.

9. In any event, the allegations made in the complaint would at best make out a case of breach of trust and cheating and not forgery for the purpose of cheating. The ingredients of the offence punishable under Section 468 Cr.P.C. are not attracted in the present case.

10. The offences punishable under Sections 420 and 406 IPC have been made compoundable under sub-Section (2) of Section 320 Cr.P.C. Of course, Section 420 IPC has been made compoundable with the leave of the Court.

11. In the instant case, the dispute between the complainant and the petitioner have been set at rest on the basis of compromise arrived at by them. The dispute involved herein has basically overtone of a civil dispute. The continuance of the same after the compromise arrived at between the parties would be a futile exercise. In my view, it may lead to harassment, agony and pain not only to the petitioners but the complainant also.

12. In view of the discussions made, herein above, the impugned order dated 20.04.2015 passed by the learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 1250 (C) of 2015 and all consequential proceedings arising therefrom are quashed.

13. The application stands allowed.