
(1999) 12 PAT CK 0042

In the Patna High Court

Case No : Criminal Miscellaneous No. 2331 of 1996

Royal Projects Ltd. and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 01-12-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202
Penal Code, 1860 (IPC) — Section 420, 467, 468

Citation : (2000) 1 BLJR 13

Hon'ble Judges : Choudhary S.N. Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Choudhary S.N. Mishra, J.—In this case, the petitioners have prayed for quashing the order taking cognizance dated 15-5-1995 of an offence punishable under Sections 420, 467 and 468 of the Indian Penal Code against the petitioners. The proceeding was initiated on the basis of the complaint petition filed by Opposite Party No. 2. It is alleged that petitioner No. 1, namely, Royal Projects Limited, a company incorporated under the provisions of the Companies Act, 1956 carries on the business, inter alia, for letting out motor vehicles on hire. That petitioner Nos. 2 and 3 are the Directors of petitioner No. (...sic), the company. It is alleged that the vehicle in question, namely, Tata Diesel Vehicle bearing registration No BR-286/1495, Engine No. 692.DOI 413243, Chassis No. 344.073.399219 which was sold to petitioner No. 1 though one Phooltas Autos Private Limited. In support thereof a money receipt has been made Annexure-1 showing the payment of Rs. 3,49,575/-. It, further appears that on 7th of February, 1992, petitioner-Company being the owner entered into the agreement with the opposite party Arun Kumar, the complainant and one Tirunjay Kumar as hirers whereby the petitioner No. 1 agreed to let out and the said hirers agreed to take on hire the said vehicle on the terms and conditions mentioned in the agreement for payment of the monthly rents and/or hire charges more fully and particularly stated in the said hire purchase agreement. A copy of the agreement is made

Annexure-2 to this petition. The parties further entered into an agreement on 17th February, 1992 Known as Agreement of Arbitration whereby the petitioners agreed to refer to the dispute and differences arising out of such transaction in terms of hire purchase agreement to arbitration. A copy of the arbitration agreement is made Annexure-3 to this petition. It is alleged that initial deposit payable vide the agreement, the hirer on 4th February, 1992 deposited a sum of Rs. 1,18,000/- out of which a sum of Rs. 27,767/- duly refunded by the petitioner to the hirers and the balance amount was treated by the petitioner No. 1 to be the initial deposit made by the hirers under the said hire purchase agreement. In support of the said payment, the voucher have been made Annexure-4 series to this application. Petitioner No. 1 being the owner of the vehicle in question let out the same to the hirers which will be born out from the endorsement made in the blue book and subsequently the hirers failed to make payment of the hire charges within the time and the manner stipulated in the said hire purchase agreement. Consequently, the dispute was referred to the arbitrator in terms of the arbitration clause wherein the complainant appeared and filed the statement of facts but it is not apparent as to what happened to the arbitration proceeding. It, further, transpires that the complainant went to the Consumer Court. The Consumer Court has passed an order directing petitioner No. 1 to pay Rs. 35,000/- by way of compensation. Against the said order, the petitioners filed an appeal before the appellate Consumer Forum which is still pending. Meanwhile, Opposite Party No. 2 filed a complaint petition for initiating a proceeding under the aforesaid provisions of the Indian Penal Code against the petitioner which was sent for inquiry in terms of Section 202 of the Code of Criminal Procedure. On the basis of inquiry report, the learned Magistrate took cognizance of the alleged offence against the petitioner, as stated above.

2. Learned Counsel for the petitioners has challenged the very initiation of the criminal proceeding against the petitioners on the ground that even if the allegation made in the complaint petition is taken on its face value, no criminal offence much less the offence alleged is made out against the petitioner. In the light of the aforesaid submissions, I have gone through the complaint petition. The submission of the learned Counsel is well founded. Even if the allegation made in the complaint petition is taken on its face value no criminal offence, much less the offence alleged is made out against the petitioner. I am supported by a decision of the apex Court in the case of Sardar Trilok Singh and Others Vs. Satya Deo Tripathi, . That apart from the facts stated hereinabove, it is apparent that not only the complainant filed a case before the Consumer Court but also filed a statement of facts before the arbitrator. The dispute, as stated above, was referred to the arbitrator in terms of the arbitration clause. The dispute between the parties is absolutely civil in nature and, as such, the very initiation of criminal proceeding against the petitioner is an abuse of the process of Court. Accordingly, the order taking cognizance of an offence under the aforesaid provisions of the Indian Penal Code against the petitioner is quashed and, consequently, this application is allowed.