
(2013) 02 JH CK 0077

In the Jharkhand High Court

Case No : Cr. M.P. No. 8645 of 2000 (R)

Shailendra Katyal

APPELLANT

Vs

The State of Jharkhand and Samir Juneja alias Bobby

RESPONDENT

Date of Decision : 21-02-2013

Acts Referred:

Citation : (2013) 2 AJR 714 : (2013) 2 JLJR 172

Hon'ble Judges : Dhruv Narayan Upadhyay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Dhruv Narayan Upadhyay, J.—These Cr.M.Ps. have been filed for quashing the order dated 16.8.2000 by which the petitioners have been summoned to face trial in connection with C/I Case No. 698 of 2000 pending in the Court of Judicial Magistrate, Jamshedpur and also the entire criminal prosecution arising out of said compliant case being C/1 Case No. 698 of 2000. The facts emerging from the complaint in brief is that the complainant happens, to be proprietor of Ws. Navin Distributors having its office at 49, Sindhi Colony, P.S. Golmuri, Jamshedpur, District East Singhbhum, whereas accused persons/petitioners were related with Ws. Marico Industries Ltd. The firm of the complainant was appointed as distributor to sell the goods supplied by the petitioners' company and the distributorship was given to the complainant in the year 1997. The business term between the parties continued till November, 1999. Thereafter the business relationship between the parties was broken-up due to termination of distributorship granted in favour of the complainant. The complainant felt aggrieved because he sustained loss due to untimely termination of distributorship and that too without reason and therefore, he has lodged this case.

2. It is submitted that the reason behind institution of this case is business transaction. According to admitted case of the complainant he was appointed as distributor, goods were supplied to him, but due to some reason or the other, the

business term discontinued between the parties and that does not mean or constitute offence u/s 420, 409, 418 read with Section 120(B) I.P.C. So far as settlement of account is concerned that has also been done and the petitioners' firm had already deposited the demand draft for Rs. 1,10,000/- and odd drawn in favour of the complainant's firm. No element of cheating was ever existing and therefore, ingredient of Sections 418 and 420 I.P.C. are not attracted. So far as Section 409 I.P.C. is concerned that has wrongly been added by the complainant and also wrongly been mentioned in the impugned order. There was no question of application of Section 409 I.P.C. nor any ingredient of said offence have ever been stated in the complaint or in the statement of complainant recorded on S.A. The learned counsel has also referred the judgment reported in 2012(2) JCR 409 (Jhr) Appollo Health & Lifestyle Limited & Ors. v. Shri Anil Kumar.

3. On the other hand, learned counsel, appearing for the complainant-opposite party, has vehemently opposed the argument and submitted that without any rhyme and reason, the distributorship granted in favour of the complainant was terminated and due to that the investment made by the complainant come to an end and he sustained loss. The supply of goods was untimely stopped without assigning any reason, such conduct certainly indicates towards offence of cheating. There was violation of terms and conditions agreed between the parties.

4. I have gone through the complaint petition, impugned order and the judgment referred to above. It is not disputed that behind institution of this case there was a business dealing between the parties. It is admitted case of the complainant that he was appointed as distributor by the petitioners' company and this distributorship remained continued for about 2 years and in between no party has raised any grievance against any other, which indicates that no deceptive intention was present when the parties had entered into the agreement. No only that, the agreement so executed between the parties was also complied with. If for certain reasons, the distributorship was cancelled, the complainant cannot say that he has been cheated and the ingredient of Section 418 and 420 are attracted. I do agree that application of Section 409 has wrongly been indicated in this case and there was no ingredient neither stated in the complainant nor in S.A. of the complainant. The reasonings assigned by this Court in the case of Appollo Health & Lifestyle Limited (Supra) are applicable in the facts and circumstances appearing in the case at hand to a great extent and therefore, I do not feel it desirable to repeat the same findings and the judgments cited and relied upon in that very case again and again. Considering all these aspects the order dated 16.8.2000 passed in C/1 Case No. 698 of 2000 stands quashed and accordingly, the criminal prosecution arising out of C/1 Case No. 698 of 2000 also stands quashed and the petitions stand allowed.