

(2016) 12 JH CK 0008

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 2102 of 2016

Ubqool Futuretech Pvt. Ltd.

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 01-12-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120B, Section 406, Section 420

Citation : (2017) 1 ECrC 475

Hon'ble Judges : Mr. Rongon Mukhopadhyay, J.

Bench : Single Bench

Advocate : Mr. Amit Kumar Sinha, Advocate, for the Opposite Party No. 2; Mrs. Jashodhara Tripathy, Advocate, for the Petitioners; Mr. Pankaj Kumar, A.P.P, for the Opposite Party No. 1

Final Decision : Allowed

Judgement

Mr. Rongon Mukhopadhyay, J. - Heard Mrs. Jashodhara Tripathy, learned counsel for the petitioners and Mr. Amit Kumar Sinha, learned counsel for the opposite party no. 2.

2. In this application the petitioner has prayed for quashing the entire criminal proceeding in connection with Lalpur P. S. Case No. 62 of 2016 registered for the offence punishable under Sections 406, 420 & 120(B) of the I.P.C.

3. It appears that initially a complaint case was instituted in which it was alleged that accused no. 3 who was well-known to the complainant had shown his inclination to get the franchisee of digital education from him and thereafter the accused nos. 3 and 5 had come to the office and offered franchisee. Further assurance was given that Mrs. Juhi Chawla, the film star is the brand partnership ambassador for branding, marketing activities across media education of partnership. Further allegation has been made that accused nos. 3 & 5 had assured the complainant to give demonstration to the student and their guardian for this digital education for which a particular fee shall be charged. On the

inducement and assurance of the accused persons, the complainant and the witness no. 1 agreed and had deposited an amount of Rs. 8 lacs and an agreement has also been entered into between the parties on 10.01.2014. Pursuant to the agreement, work had also started and subsequently in the month of May 2014, the website of the accused got closed and when the complainant tried to contact the accused persons even if assurance was given to start the work, but the same was never done and ultimately the accused persons did not return back the amount. The complaint was sent to the police under Section 156(3) of Cr.P.C. which led to registration and its institution of Lalpur P.S. Case No. 62 of 2016.

4. It has been submitted by the learned counsel for the petitioners that the petitioner no. 1 is the Company whereas the petitioner no. 2 is the Director of petitioner no. 1. Submissions have been advanced that the matter has been compromised between both the sides and an amount of Rs. 10 lacs has already been paid to the opposite party no. 2 through 2 cheques which have already been encashed. She further submits that as per the terms and conditions of the agreement, the complainant shall not proceed further in the matter, since his grievance has been redressed as the entire amount of Rs. 10 lacs has been paid to him.

5. Mr. Amit Kumar Sinha, learned counsel for the opposite party no. 2 has accepted the contention of the learned counsel for the petitioners and has submitted that the amount through 2 cheques which has been received by the complainant and Amit Kumar Agarwal have already been encashed and now no grievance exists against the petitioner ? company as well as the petitioner no. 2 and since a specific condition was mentioned not to proceed further in the criminal case in view of the payment of the amount, the opposite party no. 2 does not intend to proceed further in the matter.

6. The very basis for quashing of the entire criminal prosecution is the agreement entered into between the petitioners and the opposite party no. 2 according to which the amount of Rs. 10 lacs as has been agreed has already been returned to the opposite party no. 2 and Amit Kumar Agarwal vide two cheques bearing nos. 000101 and 000102. As has been stated by the learned counsel for the opposite party no. 2, the said cheques have already been encashed. The terms and conditions of the joint compromise petition also points to the fact that since the amount has been received by the opposite party no. 2, he has undertaken not to proceed further in the criminal matter.

7. Considering the fact that the entire dispute is with respect to business transactions entered between the petitioners and opposite party no. 2 and Amit Kumar Agarwal and since the amount of Rs. 10 lacs as agreed upon has already been returned to the opposite party no. 2 and Amit Kumar Agarwal and the dispute between the parties having been finally laid to rest, no fruitful purposes will be served in continuing the criminal proceeding.

8. In view of the above, this application is allowed and the entire criminal proceeding in connection with Lalpur P. S. Case No. 62 of 2016 registered for the offence punishable under Sections 406, 420 & 120(B) of the I.P.C. is hereby quashed.